

2008 SPEECH

OFFICIAL OPENING OF THE COURTS OF

VANUATU

THE HONOURABLE CHIEF JUSTICE LUNABEK

**His Excellency Kalkot Mataskelekele, President of the Republic
of Vanuatu and Lady Mataskelekele,**

**Right Hon. Ham Lini Vanuaroroa, Prime Minister of the Republic
of Vanuatu, and Mrs. Lini,**

**Hon. Sam Dan Avock, Speaker of Parliament and Madame
Avock,**

Hon. Joshua Kalskau, Minister of Justice and Social Welfare

Hon. Ministers of the Government

Hon. Judges of the Supreme Court of Vanuatu and wives,

Hon. Moana Carcasses, Leader of the Opposition,

Hon. Members of Parliament,

Hon. Attorney General of Vanuatu and Mrs. Kalsakau,

Excellencies Members of the Diplomatic Corps,

Magistrates and Spouses,

Public Prosecutor,

Public Solicitor,

Ombudsman,

Commissioner of the Police,

Big Chief Paul Tahi, President of the National Council of Chiefs,

Members of the Legal Profession,

Members of the U.S.P. Law Faculty,

Registrar of the Supreme Court, the Court Staff and Families,

Representative of Women,

Representative of the Press/Media,

Representative of the Churches,

**Ladies and Gentlemen, Big Men and Women, Pikinini mo People
blong Vanuatu.**

I am very pleased to address you all on this special occasion of the opening of the Courts' session for the year 2008. Happy New Year to all of you.

Last year 2007 has been a very challenging and trying year for the Judiciary and people of Vanuatu.

In the early hours of 7 June 2007, the Supreme Court building which accommodated the offices of the Chief Justice, the Judges of the Supreme Court, the Supreme Court Registry, the Central Administration of the Judiciary and the Supreme Court support staff, was completely destroyed by fire.

The destruction of the Supreme Court House is a tragedy for the entire nation. The building and everything in the building were reduced to ashes. The Supreme Court administration has to start again from scratch. The consequences of the destruction of the Supreme Court building will be felt for many years. I do remember the stand and the call I made to the nation which I repeat it again here today on this special occasion for positive action and not to dwell on the negative.

It is important to remember about the positive steps taken collectively to move the Judiciary of Vanuatu into a 3-phase rehabilitation and rebuilding process after the 7 June 2007.

The Phase 1 was about the identification of the office building space to relocate and furnish the office of the Chief Justice, the office of the Judges of the Supreme Court, the Registry of the Supreme Court and the Efate Island Court offices. This was successfully done within a week after the fire on 14 June 2007 when the Supreme Court offices were relocated and furnished in a government building. Another government building was provided to the Judiciary to accommodate the Supreme Court conference room used by the Court of Appeal during its sessions.

Phase 2 consisted of the identification, the planning, the costs assessment of structures to create court rooms for the Supreme Court Judges resident in Port-Vila and the Court of Appeal of Vanuatu. After so many attempts and negotiations, the Judiciary successfully entered into renting agreement with the Port-Vila Municipal Council to rent three (3) rooms and 2 offices and toilet

facilities at Dumbea Municipal Hall. The arrangement is for a term of 3 years starting from August 2007.

An integral part of phase two is the reconstitution of case files pending before the Supreme Court in Port-Vila. The process of reconstitution of case files is ongoing and the Supreme Court Registry office continues to depend on the efforts of the lawyers and the parties to cases pending before the Supreme Court to assist in this endeavor. This will take some time yet. A special programme will be put in place to monitor this exercise. The Registry office is now equipped with a photocopying machine which will be used to assist self-represented litigants to copy their material for purposes of reconstruction of case files.

Excellency, President of the Republic of Vanuatu, Prime Minister, Speaker of Parliament, Judges, Ministers of Government and other distinguished guest, it has been a trying year for us all. I wish to acknowledge again as I did on 14 June 2007 during the dedication of the Supreme Court new site which currently houses the office of the Chief Justice, the offices of the 2 Judges of the Supreme Court, the

Registry of the Supreme Court, the Supreme Court administration and support staff, that the positivity exhibited by all of you, from the President, the Prime Minister, the Minister of Justice, the Council of Ministers, the Leader of Opposition, the lawyers, the Court personnel, and the members of the business community we have worked with, have simply been overwhelming. Special acknowledgement also is made for the prompt and effective assistance offered by the Vanuatu Government and Vanuatu's traditional donor partners including the Australian government, the New Zealand government, the French government, the Chinese government and the European Union.

I wish to make a special acknowledgement and thank women and men who work for the Courts in Port-Vila for their commitments during the trial times which are beyond duty. Thank you so much. Keep up with the good work for the people of Vanuatu.

The positive momentum has been set by all of you through your concerns of the destruction of the Supreme Court building in June 2007 with messages of encouragements.

Currently the Chief Justice, the Judges and the Supreme Court Registry operate in very difficult situations with very small sized offices. There is urgent need to concentrate on phase three on rehabilitation and rebuilding process.

Phase 3 centers around the building of a new Supreme Court Building. Although 2008 is an election year in Vanuatu, I call on the Government authorities, the Judiciary and everyone to focus on the building of a New Supreme Court Building of Vanuatu.

In February 2008, a philosophical concept design of the new Supreme Court Building will be issued by the office of the Chief Justice. This will then pave the way for brief design concepts from skilled and professional architects and builders. The new building must cater for the next 50-100 years. It must fit into the contemporary architect of Port-Vila and surrounding. The architectural style must be one to represent the authority of the Judiciary as the Third Branch of the Government in a Parliamentary democratic state. It must cater specific environmental consideration e.g. wind, water, sunlight and

earth frequency and strength. Sustainability and maintenance are two considerations that are integral to the planning and building stages.

The Executive Government and the Judiciary have to put in place a project governance structure to oversee the development of each of stages of the project cycle which will transform the concepts, philosophies and aspirations contained in the Design Concept document into implementation:

- Developing a design concept for direction given
- Managing detailed design development
- Procurement of project resources
- Construction
- Occupation and commissioning of permanent premises
- Decommissioning of current temporary court offices.

The project governance structure will be powered by a Court House Building Committee. A Project Team will be put in place. The details of the project governance structure in terms of responsibilities, reporting, coordination, consultation and management of the project shall be sorted out soon in February to March 2008.

Although the building may seem to be a huge challenge, it must fit into the reforms currently being implemented by the judiciary. The vision of the reform has been spelt out in the Chief Justice Official Speech of 2006 with the underlying policy statement which is necessary to be restated here today.

The vision is that of:

A Judiciary that is independent, effective and efficient, and worthy of public trust and confidence, and a legal profession that provides quality ethical, accessible and cost-effective legal service to our people and is willing and able to answer the call to public service.

The mission statement is:

To dispatch justice to everyone living in this country with mandatory duties to interpret the law and uphold the Constitution and the Law and to expand services in each Province and Islands in the near future.

The policy statement as announced then and is ongoing is that:

The Judiciary, as the constitutional designated arbiter of all legal disputes in our democratic system of government, must, at all times, maintain its independence and remain immune from undue influence, not at the cost, however, of sacrificing comity with the co-equal branches of the Government. It is essential that the Judiciary and the members of the legal profession, as officers of the Court, be of utmost competence and unassailable integrity.

As the Judiciary is meant to serve the people through the dispensation of justice, the Bench must be fully accountable to the public by remaining transparent, yet not betray those aspects of the judiciary process, which require utmost confidentiality. Members of the Judiciary and court personnel must unerringly adhere to the constitutional precept that public office is a public trust. Dishonesty, incompetence, inefficiency and any form of unbecoming conduct are impermissible and will not be tolerated in the Judiciary nor in the legal profession. To that end, those who fail to meet the standards set for members of the Bench and the Bar will be dealt with appropriately.

The system of administration of justice must be geared to achieve the goal of delivering fair, impartial and swift justice. Hence, the core values of the rule of law, equal justice, judicial independence and the pursuit of excellence should be preserved and at all times be predominant.

The judicial reform identifies four critical areas:

- Judicial Systems
- Rules and Procedures
- Human Resources Development
- Training and Development

These aspects of judicial reforms were the focus of the Management Improvement Plan for 2007 which was produced by the Judiciary as required under the Judicial Services and Courts Act.

Under the focus point of Judicial Systems, the goals of producing a 3-volume Financial Standard Procedure Rules Manual was launched in early 2007. A first Management Improvement Plan for the Supreme Court was launched in March 2007.

Under the focus point of Rules and Procedures, the Review of the Civil Procedure Rules 2002 did not eventuate as planned and will be incorporated into the Management Improvement Plan for 2008 and will feature in the Judiciary's strategic planning. In conjunction with Rules consideration, the Courts will continue to explore alternative dispute resolution mechanism through the appointment of court annexed mediators as an integral part of case management by the courts. It will be necessary to amend the Judicial Services and the Courts Act for that purpose.

A strategy of the Management Improvement Plan for 2007 which was partly accomplished is the Strengthening of linkages with other pillars of justice including the Police, the Prosecution, the Bar, and the Correctional Services. It is my view that for this to happen, the Ministry of Justice must have a national responsibility, in terms of policy and overseeing coordination between these different institutions in terms of driving relevant policies. Then the judiciary will participate fully in this exercise. At the present time, the judiciary cannot develop effective linkages because of the approach, management and control of existing legal sector institutions strengthening projects such as Legal Sector Strengthening Project

which policies and directions are managed and controlled outside of Vanuatu.

What is important and is in the best interest of Vanuatu is that the legal sector institutions must be strengthened and encouraged with overall drive, ownership and sustainable management and control by the Government of Vanuatu through the Ministry of Justice.

Assistance are needed, required and must be encouraged.

The adjustment of structures and policies governing current strengthening project of legal public institutions is required so as to give the Government of Vanuatu opportunities to fulfill aspirations of people of Vanuatu as enshrined in the Constitution. It is suggested that in the process of assessment of its needs, the Vanuatu Government can conduct its own fact-finding missions to find out particulars of systems in places like Mauritius, Canada, and especially, the Canadian state of New Brunwicks which legal regime is the Common Law taught in the French language and therefore achieving an overall balance and justice for all its citizens; either Anglophones or Francophones.

As in my previous speeches, there is the suggestion that the Government seriously consider the establishment of a Law Reform Commission as a matter of centralizing and strengthening of law making processes in the country. This will enable citizens the ability to make submissions towards law making processes and expand the ability of all our parliamentarians to initiate bills for the benefit of our people and all our public institutions and civil society to make submissions to the Commission. It will also allow appropriate consultations on proposed bills to be made. It is imperative and obvious, I hope, then that the Government through the Ministry of Justice must be the central coordinating authority.

The Human Resource Development aspect of the Management Improvement Plan for 2007 was partly achieved by the appointment of the Chief Registrar of the Supreme Court. It was expected to appoint other senior manager in the court administration but the appointments could not eventuate due to budget constraints.

The Office of the Sheriff of the Supreme Court will be strengthened as part of the 2008 plan.

The Chief Magistrate shall be appointed in the first quarter of 2008. The recruitment process is in good progress. The plan for 2008 will have to consider the appointment of another Magistrate for Vanuatu. After the appointment of the Chief Magistrate, and in consultation with the Office of the Chief Justice , some of the current Magistrates will be appointed to Senior Magistrates positions to be responsible for each Province of the country. It is a plan for 2008 that two Judges of the Supreme Court be appointed considering the ever-increasing workload in the Supreme Court. Due to budget constraints, only one judge will be appointed in the first quarter of 2008.

The strengthening of the Island Courts system through out the country is still ongoing. A staff of the Island Court was posted to Loltong on Pentecost island in February 2007. The Efate Island Court building and the Island Court building at Lakatoro were renovated and commissioned in early 2007. However, the Efate Island Court building was rendered unusable by the fire which destroyed the Supreme Court building.

Two new Court Buildings were completed and commissioned on the Islands of Epi and Ambrym respectively in December 2007. This year, the Court Administration will furnish these two buildings so they

become operational. The matter of permanent staffing at these two locations will be depended on budget and the judiciary's recruitment program. They will receive regular court visits as planned in the year planner of 2008.

In terms of training and development, the Judiciary will continue the training of its officers at the Law Faculty of the University of the South Pacific. A court staff was given study leave to prepare an LLB course until 2010. In addition, Vanuatu judiciary will benefit from the training development from Pacific Judicial Development Program [PJDP] either regionally or nationally.

Vanuatu judiciary attended many international and regional conferences one of which was the Pacific Judicial Conference held in Tonga in November 2007. It was attended by the Chief Justice and Justice Hamlison Bulu accompanied by their respective wives.

In December 2006, a Twinning Convention was signed by the Supreme Court of Vanuatu, the Office of the Public Prosecutor of Vanuatu and the Cour d' Appel de Noumea, New Caledonia for exchange of information and documentations, seminars and

conferences. Since then, Judges, Magistrates, Prosecutors, Court Administrators and Staff have benefited from exchanges and exposure in the Court of Appeal of Noumea, New Caledonia.

As a prerequisite to quality services to the people in the language of their choice under the Constitution the judiciary has taken the step to train its staff members, magistrates and judges in the French language. This was planned for 2007 but has now commenced in January 2008.

In conclusion, I wish to reiterate the following points:

1. The process of building of the new Court Building will begin this year 2008.
2. The judicial reforms by the judiciary as driven by its vision is ongoing.
3. Plans set up by the Management Improvement Plan for 2007 were implemented with some success despite complete destruction of the Court Building.
4. Overall strengthening of public legal institutions are a must for the advancement and development of the judiciary and therefore it is imperative that efforts to strengthen these

institutions must be owned, driven, managed and controlled in a sustainable way by the Government of Vanuatu.

5. Developments in the Island Courts, the Court's infrastructure, personnel and tools such as the Financial Standard Operation Procedures show that despite the major set back and impairment as direct effects of the fire destruction, the Court has continued to advance on its judicial reform program. It has continued to operate from 8th June 2007 hereon.

6. I wish to make a final observation, and in the national interest, I acknowledge the good work of the Community Parole Board chaired by Honourable Justice Oliver Saksak of the Supreme Court. Under current legislations, there is provision for the Parole Board to transfer detainees from one correctional center to another correctional center anywhere in the country once the detainee is convicted of a criminal offence and lawfully sanctioned by a competent criminal court. These powers exist within the framework of current legislations.

Before I conclude, I now provide the statistics to show the court's workload from 2007.

Excellency the President, Invited Guests, Ladies and Gentlemen I
now declare the Supreme Court Session for 2008 officially Open.

Thank you for your attention.