

**2011 SPEECH
OFFICIAL OPENING OF THE COURTS
OF VANUATU**

THE HONOURABLE CHIEF JUSTICE LUNABEK

**His Excellency Iolu Johnson Abbil, President of the Republic and
First Lady**

**Hon. Maxime Carlot Korman, Speaker of Parliament & Mrs Korman
Right Hon. Sato Kilman, Prime Minister of the Republic of Vanuatu,
and Mrs Kilman,**

**Hon. Ham Lin Vanuaroroa, Deputy Prime Minister & Minister of
Trades and Business Development and Mrs Lini**

**Hon. Yoan Simon Omawa, Minister of Justice and Community
Services and Mrs Omawa**

Hon. Ministers of the Government

Hon. Judges of the Supreme Court of Vanuatu,

Hon. Edward Nipakei Natapei, Leader of the Opposition,

Hon. Members of Parliament,

**Hon. Alatoi Ishmael Kalsakau, Attorney General of Vanuatu and Mrs
Kalsakau,**

**Excellencies Members of the Diplomatic Missions and Development
Missions,**

Chief Magistrate, Stephen Felix and Mrs Felix

Magistrates and Spouses,

Public Prosecutor,

Public Solicitor,

Director General and Directors of Government Departments

Ombudsman

Commissioner of the Police, Joshua Bong
Chief Alguet Gratien, President of the National Council of Chiefs
and Mrs Alguet
President of Vanuatu Law Society, Mr Bill Bani
Members of the Legal Profession,
Members of the 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 give you my greetings for the New Year 2011. Happy New Year 2011 to all of you. It is my privilege and pleasure to address you on this special occasion of the opening of the Courts' session for the year 2011.

Before I begin my speech I have 2 things to do: First, allow me to welcome and present to you Hon. Justice Robert Spear as a new member of the Supreme Court Bench of the Republic replacing Justice Nevin Dawson who had returned back to New Zealand with his wife Jill Dawson. Justice Spear was sworn in yesterday by the President and he will serve the people of Vanuatu as a Judge of the Supreme Court of Vanuatu for a term of 2 years. Congratulations and welcome to the Bench.

Second, I take this opportunity to congratulate each and all 4 newly appointed Magistrates of the Republic of Vanuatu. I thank your parents, husbands or wives and extended members of your families for their contributions to your achievements as today you are sworn in Magistrates of the Republic. To you newly appointed magistrates, being a Magistrate in Vanuatu is a big challenge. Vanuatu people need your services. I ask each of you to stand by the terms of your oath of Judicial Office. Again congratulations and thank you.

We enter into a new legal year. I remind us about my 2010 year speech on the occasion to officially open the Courts Sessions. We need to ponder and look back to the good things, the bad things, the challenges and the trying times Vanuatu and its people have gone through since 1980 Independence. Once we have done this, we must reflect back on the acquisitions, values, strengths and learn from our mistakes and set new directions for the future of Vanuatu and its people.

I need to remind us about them. I do this by reminding us about the direction set for the Judiciary in its vision, policy statement and judicial reform missions.

"VISION OF THE ADMINISTRATION OF JUSTICE

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.

Elaborating on this vision is the policy statement of this vision, which enunciates the following:

POLICY STATEMENT

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 or 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.”

In pursuing the stated vision of enhancing and maintaining public trust and confidence in the country’s system of justice, and improving the contribution of the judicial system to socio-economic development and global competitiveness, the reform program will adopt and work toward fulfilling the following mission:

(a) SPEEDY AND FAIR DISPENSATION OF JUSTICE TO ALL

The Judiciary will strive to consolidate and optimize the gains from the judicial reform process towards improving the speed of delivery of judicial services and ensuring the fair dispensation of justice throughout the Islands of the Republic.

(b) JUDICIAL AUTONOMY

Judicial autonomy or independence from undue political interference in the exercise of judicial functions and decision making will be achieved if the Judiciary will attain autonomy in the generation of its resources (human, physical, financial) as well as in the management of their utilization and development. The achievement of the administrative and financial management independence of the Judiciary is one of the most important aspects of the reform process.

(c) IMPROVED ACCESS TO JUDICIAL AND LEGAL SERVICES

Reforming substantive law, jurisdictional structure of the Court, judicial system and procedures, legal education, as well as the institutional processes and resource generation strategies will be geared toward consolidating gains that will increase geographical as well as financial access to judicial

services particularly by the poor and other disadvantaged sectors and Islands of Vanuatu.

(d) IMPROVED QUALITY OF EXTERNAL INPUTS TO THE JUDICIAL PROCESS

The judicial system does not and cannot operate in a vacuum. Reforming the judicial system requires that the external systems that feed into the judicial process must satisfy the efficiency, quality and speed requirements of judicial decision making. This means that corresponding reforms in the systems of criminal investigation, prosecutions, evidence gathering, apprehension, correction, witness protection, and alternative dispute resolution must be pursued and put in place. The Judicial Reform Program will adopt a holistic and integrative approach that will address both the internal and external components of the judicial reform process.

(e) EFFICIENT, EFFECTIVE AND CONTINUOUSLY IMPROVING JUDICIAL INSTITUTIONS

The reform program will give utmost priority to the establishment of institutional structures, systems and procedures, and the generation of resources that will enhance the efficiency of the courts and support operations of judicial institutions; the capacity to achieve goals and performance targets; the capability to monitor and review performance and to plan for the short and medium terms; and the ability of judicial institutions to continuously assess and improve themselves.

(f) A JUDICIARY THAT CONDUCTS ITS BUSINESS WITH DIGNITY, INTEGRITY, ACCOUNTABILITY AND TRANSPARENCY

The enhancement and maintenance of public trust and confidence in the system of justice hinges on the dignity, integrity, accountability and transparency with which the institutions, the Justices and Judges, as well as all personnel conduct themselves. The Judicial Reform Program will pursue reforms that will provide an environment and culture that exudes respect, honesty, integrity and probity.

The Judiciary will continue with its reform developments focusing on at least four (4) critical areas: 1) judicial systems and procedures; 2) institutions development; 3) human resource development; and 4) reform support systems.

Reforms in the judicial systems and procedures shall cover: improving court managements systems, including caseload management and monitoring and evaluation; streamlining the rules of court; reengineering court jurisdictional structure; exploring alternative dispute resolution mechanisms; and strengthening the linkage with other pillars of justice including customary dispute resolution mechanisms.

On the other hand, reforms in the area of institution development shall address the need for fiscal autonomy and financial resources generation, and bring about significant improvements in the administrative structure and operations, court infrastructures and support facilities, and information systems quality.

In the area of human resource development, reforms shall cover staffing and remuneration, legal education, capacity building and training and judicial appointments.

In the area of reform support systems, the role of public information in the delivery of justice shall be maximized and collaboration with civil society shall be encouraged.

In 2011, focus will be placed on certain aspects of the abovementioned areas of reform which are quantifiable, realistic and within the availability of our resources.

The Management Improvement Plans for this year 2011 addresses some areas for improvements and developments.

The first focus is on judicial systems:

- **There is a need to put in place a caseload management, monitoring, tracking and evaluation system;**
- **A database system with specific reports and enter all data;**
- **A need to properly put in place an operational court staff manual pursuant in line with the Judicial Services and the Courts Act of 2000.**

The second focus is about Rules and Procedures.

- There is a need to review various parts of the Rules which have been identified over time.
- A special area for consideration is to follow up on the changes in legislation and rules to allow for development and consolidation of mediation as ADR for case management by the Master of the Supreme Court of Vanuatu who also mediate cases a part of the case management in the Supreme Court.

Focus point 3 is on Development in Human Resources. In 2011, two (2) judges of the Supreme Court will be recruited. One of such recruitment will be with the assistance of the Commonwealth Secretariat. The other will be on local terms.

The position of the Master/Mediator of the Supreme Court is now vacant. Assistance is considered to get an experience Master/Mediator to fill in the position while two deputy masters will be recruited and trained and supervised by the Master.

The Judiciary planned to recruit 3-4 Magistrates in 2011. Four (4) Magistrates are sworn in today. After the orientation programme, they will be posted to the Magistrates' Court in the Republic. 1 will be sent to Malekula (Lakatoro), another to Tanna (Isangel) and 2 others will be in Port-Vila Magistrates Court.

Other Senior Administrators will be appointed this year and this includes one Administrative assistance to the Chief Justice and a Judicial Development and Training Coordinator.

Focus Point 4 is on Institutional Developments. In this regard, the Judiciary can only do what it can with its budget to repair court offices and court tied houses and purchasing new office equipments and replacing few vehicules and other minor maintenances.

Below are some of my concerns:

- 1) As I have mentioned in 2010 Speech, court buildings and residencies of Judges, Magistrates and Court support staff in Port-Vila, Santo, Tanna, Tongoa, Vanua Lava, need full repairs and maintenance. Despite judiciary budget submissions considerations to cover them, nothing happened.

- 2) There is need to build more court houses in the major islands of the Republic and these include:

Santo, Ambae, Pentecost, Torres and Aneitjum. People living in rural and remote Islands and communities have right to have access to justice. For that to happen, they need to have access to proper functioning and equipped courts and well-equipped facilities functioning support equipment and systems.

- 3) There is need to have more qualified and experienced Ni-Vanuatu Citizen and local and including regional practitioners appointed on the Supreme Court Bench. For that to happen, I recommend that the Ministry of Justice in liaison with the Judiciary administration starts the process for consideration to review the current terms and conditions and consider new incentives to attract and retain them on the Bench. The time is about right.
- 4) My last concern is about the general standard of professional conduct of legal practitioners in Vanuatu; the non performance of the Vanuatu Law Society since its establishment in 2010; and the need for a continuing legal education program. Something must be done. If there is need to rectify defects(if any) in existing legislation to come up with a modern piece of legislation the implementation of which can be expected to improve the general standard of professional conduct of legal practitioners in this country. It must happen.

On a more positive note, the Pacific Judicial Development Programme is again up and running under the assistance of the NZAID and AUSAID. It is a regional Programme. Vanuatu Judiciary is ready to be part of it with other Pacific Islands Judiciaries.

I need to mention that Vanuatu Judiciary notes and appreciates the understanding by some organizations as to the stand and positions taken by the Judiciary of this Republic in its developments.

Lastly, in addition to the relationships and arrangements the Supreme Court has established with other courts in the region and internationally (Court of Appeal of Noumea-New Caledonia, New Zealand...), I need to inform that the Supreme Court of Vanuatu is in the process of finalizing a

Memorandum of Understanding (MOU) on Judicial Cooperation and Judicial Development Programs with the Federal Court of Australia with funding assistance from AUSaid. The Federal Court of Australia will assist Vanuatu Supreme Court to manage the implementation of the MOU. The MOU will be executed between the Federal Court of Australia and the Supreme Court of Vanuatu sometimes in February 2011.

Before I conclude my speech, I will refer now to some important statistics data, the details of which will be supplied in a separate publication (Reference made).

His Excellency the President, Distinguished guests, ladies and gentlemen and people of Vanuatu, it is now my honor to declare the Courts Sessions for 2011 officially open.

Thank you for your kind attention.