

**2014 SPEECH
OFFICIAL OPENING OF THE COURTS
OF VANUATU**

THE HONOURABLE CHIEF JUSTICE LUNABEK

- **His Excellency Philip Boedoro, Acting President of the Republic of Vanuatu and Speaker of Parliament and Mrs Boedoro**
- **Right Hon. Moana Carcasses Kalosil, Prime Minister of the Republic of Vanuatu and Mrs Moana**
- **Hon. Judges of the Supreme Court of Vanuatu and Spouses**
- **Magistrates of the Republic of Vanuatu and Spouses or Husbands**
- **Hon. Jonas James, Minister of Justice and Community Services and Mrs Jonas**
- **Hon. Ministers of the Government**
- **Hon. Ham Lini Vanuaroroa, Leader of the Opposition**
- **Hon. Members of Parliament**
- **Excellencies Members of the Diplomatic Corps**
- **Attorney General**
- **Ombudsman**
- **Public Prosecutor**
- **Public Solicitor**
- **Director Generals and Directors of Government Departments**

- **Commissioner of the Police**
- **President of the National Council of Chiefs**
- **President of Vanuatu Law Society**
- **Members of the Legal Profession**
- **Members of the Law Faculty**
- **Registrar of the Supreme Court, Court officers and Staff**
- **Representative of Women**
- **Representative of the Press/Media**
- **Representative of the Churches**
- **Ladies and Gentlemen, Big Men and Women, Pikinini mo
People blong Vanuatu**

Good Morning.

I bring Greetings from the Judges, Magistrates, Island Court Justices and courts support staff of the Judiciary of the Republic of Vanuatu. Happy new year 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 2014.

2014 is a new legal year. As always 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 in the past legal years. We

must then reflect back on the achievements, values, strengths and weaknesses. We must learn from our mistakes and weaknesses and set new directions for the future. I do this by reminding us again as I did during the past legal years about the direction set for the Judiciary in its vision, policy statement and judicial reform missions. I believe the needs of the judiciary for reform and consolidation as an institution must be undertaken as part of a national reform effort with the scope of enhancing its independence and core functions to enable the Judiciary become a modern judiciary with this vision:

"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.

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 a society like the Republic of Vanuatu, which is committed to the rule of law, and organised as a constitutional parliamentary democracy, the

role of the judiciary is crucially fundamental in upholding and enforcing the Constitution, resolve disputes between citizens, or between departments of governments, or between citizens and governments, as to their rights and obligations and to administer criminal justice.

It is important and always relevant to remind ourselves of the above mentioned fundamental principles and to understand and appreciate their *raison d'être*. Developments in the other part of the world and most notably the recent developments in Fiji, Papua New Guinea and most recently in Nauru show that all years of conscientious and hard work to build up public trust and confidence in the Judiciary can be destroyed in less than a day. It is very fragile.

It is therefore, the responsibility of the government, parliament, judiciary, men, women, all citizens of this country to respect and uphold the core values of the rule of law, equal justice, judicial independence.

After more than 30 years of independence, Vanuatu has come a long way in its economic, social and political development. Along with all these developments, Judiciary of Vanuatu, since 2006 has embarked on a reform~~er~~ program. In 2011, the Judiciary placed itself under intense scrutiny from an independent assessor. As a result, a diagnostic report was produced and a strategic plan was devised.

The current steps being under taken by the Judiciary are in terms of case management as I have announced in my 2013 speech of that legal year. There has been consultation locally and internationally. There has been an assessment of actual case file in the Supreme Court. There has been a testing of the integrity of the data collected by the Supreme Court and there has been improvements of basic micro soft excel files to make the data information on these files becoming useful case management tools for the daily management of cases by the judges.

In the central registry of the Supreme Court in Port Vila, there are no files sleeping because after reorganization a case file is randomly allocated to a Judge's docket as soon as it is filed and a date for first conference is issued. Case management in the Supreme Court is now where it should be – With the Judges. The excel file containing all the cases on a particular Judge's docket is available, in a confidential way, to the judge and to the judge's secretary. So that the judge knows exactly the status of each of their case daily. The case management process in the Supreme Court will continue. Assistance was needed and will be required.

THE WAY FORWARD

The current work being undertaken with court records and file management is of the most basic level of the re-organisation required

in the Supreme Court Registry. It is akin to rebuilding a house and starting again with the foundations. It is essential as it will provide more accurate assessment of the work and more efficient keeping of the files but it will not necessarily affect significantly the flow of work or its quality. That still depends on judges hearing cases and deciding them. The record keeping and the file management is of fundamental importance but it is just beginning of what is required to ensure that the Supreme Court is able to deal with its responsibilities in a timely, effective and judicious way.

As part of this process, Hon. Justice Oliver Saksak is recalled and be transferred back to Port Vila at the end of March 2014. There will be no resident judge in Luganville, Santo for the time being. An interim case management system will be considered for cases registered in the Luganville Supreme Court Registry and especially criminal cases.

There is a need to reorganise the registry system of the Supreme Court to gain efficiency and cost effectiveness. There will be one central registry office of the Supreme Court in Port Vila. There will be one central random allocation of cases to judges. This will mean a central numbering system.

I invite your comments, opinions and suggestions in respect to the idea of creating a central registry for the Supreme Court of Vanuatu and establish a central allocation of cases to judges.

I must say that the first major difficulty that is faced in the Supreme Court of Vanuatu is the grossly inadequate work environment. There is a critical need to provide the judges of the Supreme Court and the support staff with a good working environment. The current impasse in respect of the new Supreme Court building now of six years standing cannot be allowed to continue. Something must be done to break the deadlock and have all concerned move on a new Supreme Court building. If there are any detected firm positions taken in some quarters and that has meant that the courthouse rebuild is off the table at the moment, then a new approach will be required to move matters on.

There accordingly appears to be three major projects that must be advanced together.

- a. The new courthouse
- b. A review of the support services for the judiciary
- c. A review of the management structure of the courts of Vanuatu

There are other projects that need to be addressed but I have no hope of moving on them at present because of the time restraints. In particular,

- a. A review and the consolidation of the practice notes
- b. The review of the Civil Procedure Rules
- c. The need for Admiralty Rules (although a Practice Directions has been issued in December 2013 to that effect).
- d. The support of the Law Society

Any one of the three major projects will require substantial judicial involvement and oversight to ensure that the outcome is what is required for a modern judiciary. Frankly, it is beyond the ability for either me as CJ or any other judges with a full workload to attend to without risking overload and creating undue stress.

What is required is that the office of the Chief Justice must be strengthened and supported with assistance by someone who takes responsibility of these projects for the Chief Justice leaving the Chief Justice to attend to his general CJ duties.

Such assistance could best be provided by a person with significant judicial experience and has an in-depth knowledge of and experience of the Vanuatu justice system as well as life in Vanuatu, someone who has the respect of the agencies and individuals with whom he or she

would have to work, an ability to get various agencies and individuals to work together towards settling the design, implementation and completion of these projects, and someone who the Chief Justice can trust to do this.

The other two projects have to be advanced compatibly with the new courthouse. Accordingly, there is the added need for someone to have a close oversight of all three projects to ensure that they progress in harmony with each other.

I consider that what is required is a judge with those certain qualities who can devote himself or herself primarily to these projects apart from hearing cases in order to deal with the current busy workload in the Supreme Court of Vanuatu. I seek this assistance for 2014.

Again in 2014, the process of recruitment and appointment of a qualified and experienced Master of the Supreme Court will be finalised to assist with the workload of the Supreme Court.

A number of 3-4 Magistrates will be recruited also in 2014 to support the Magistrate Court work in the Provinces of the Republic.

It is to be noted that the details of activities undertaken in 2013 will be provided in the Judiciary Annual report towards the end of March 2014.

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 2014 officially open.

Thank you for your kind attention.