

**2022 OFFICIAL OPENING OF THE COURTS
OF VANUATU
(THE HONOURABLE CHIEF JUSTICE LUNABEK)**

- **His Excellency Pastor Obed Moses Tallis, President of the Republic of Vanuatu and the First Lady;**
- **Hon. Bob Loughman, Prime Minister of the Republic of Vanuatu and Madame Loughman;**
- **Hon. Speaker of Parliament of the Republic of Vanuatu and spouse;**
- **Hon. Judges and Masters of the Supreme Court of Vanuatu and Spouses;**
- **Hon. Ishmael Kalsakau, Deputy Prime Minister and Minister of Internal Affairs of the Republic and Mrs Kalsakau;**
- **Hon. Esmon Simon, Minister of Justice and Communities services and Mrs Esmon;**
- **Hon. Ministers of the Government of the Republic;**
- **Magistrates of the Republic of Vanuatu and Spouses;**
- **Excellency Members of the Diplomatic Corps;**
- **Public Prosecutor;**
- **Attorney General;**
- **Public Solicitor;**
- **Ombudsman;**
- **Director General of Justice and Directors of Government Departments;**
- **Commissioner of the Police;**
- **President of Malvatu Mauri (National Council of Chiefs);**
- **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;**

- **Representatives of the Churches;**
- **Olgata chiefs blong Vanuatu;**
- **Big Men and Big Women, Pikinini mo People blong Vanuatu**

I bring to you all, Greetings from the Judges, Magistrates, Island Court Justices and courts officials and support staff of the Judiciary of the Republic of Vanuatu.

On behalf of the Judiciary, I extend a warm welcome to all of you to the Opening of the Legal Year. It is my privilege and pleasure to address you on this special occasion of the opening of 2022 legal year and I thank you all for coming.

As we begin a New Legal Year, we reflect on the workloads and performances of the courts in the past legal years and look back to the good things, the bad things and the challenges Vanuatu Courts and its people have gone through in respect to the work of the courts, the development of the law in general and all developments in our society as to how the laws impacted on the life of our people and Vanuatu as a nation. We must then reflect back on these achievements, values, strengths and weaknesses. We must stand and continue with our vision 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 WORKS OF THE VANUATU COURTS OF THE YEAR 2021 IN REVIEW

- 2021 was an unprecedented year for the Vanuatu Courts in respect to total cases filed, with the highest number of filings on record, and approximately 15% increase on 2020, which was also a big year.
- With over 4,100 cases filed across the four jurisdictions, the workload on the judiciary and court administrators, while dealing with the pressures of COVID restrictions etc., was significant, and am very pleased to report that our performance excelled in many areas.
- The Magistrates Court in particular saw over 2,600 cases filed, almost 20% increase on previous years, while the Supreme Court again saw more than 800 cases filed. It is also most pleasing to see the Island Court's filings steadily increasing, reflecting its improved accessibility across the country, and over 550 cases were filed, the highest since 2017.
- With respect to the international court performance indicators that we work to, we have seen an excellent result with Clearance Rates – three out of the 4 jurisdictions exceeding 100% (which means our pending numbers of cases are reduced). In addition, despite the significant increase in workload, time to finalise cases across criminal and civil matters, across all 4 jurisdictions has reduced, a remarkable achievement.
- Our pending numbers are always a focus of our attention, and am pleased to say, the overall number of these cases have reduced, as has the average age of these cases being open. Another crucial court indicator is referred to as the Attendance Rate – as measured by the number of times parties/lawyers need to attend court to have their matter finalised. The target for all courts internationally is to keep this indicator as low as possible, thus minimising the impact to you – the community. Our Attendance Rates for the year have also been strong and consistent.

- The productivity of our judges and magistrates is constantly monitored, to ensure and track the efficiency of case management practices and am pleased to again reflect a strong year with respect to disposals per judicial officer, on average 125 per judge and over 270 per magistrate – in a year.
- The Court of Appeal continues to provide by world standards such as timeliness and clearance rates, an excellent service to this country. Despite more cases being filed, the CoA still managed to finalize all of the cases – within an average of 3 months from filing.
- There continues to be a similar percentage of Supreme Court cases being appealed - running at just under 10% - or 1 in 10 cases from the Supreme Court are appealed to the CoA. Out of all appeals, excluding those discontinued/withdrawn, approximately 1/3rd are upheld, and 2/3rds are dismissed.
- The ongoing commitment that the Supreme Court shows to the criminal workload has ensured the timeliness of cases to be finalized (average is less than 180 days), the attendance rates (approximately 4 attendances), and the relatively low number of pending cases reflects a positive outcome for this work in 2021.
- The Supreme Court has managed to reduce the overall pending caseload to under 800 cases, the lowest since 2013 – a collective effort of 5 hardworking judges and the 2 Masters.
- Additional judicial resources may be needed to maintain the excellent job done by the Supreme Court in 2021 particularly if criminal matters continue their steady increase from the OPP.
- With Civil cases, we are still seeing higher than desired Attendance Rates due to completion of many old cases which has direct impact and

cost to the parties. Most of our current pending cases are under judicial management and we are working to ensure each case has a future listing date, again another acknowledged international court indicator.

- The Enforcement matters in the Supreme Court has seen Attendance Rates similar to Civil and is still high, preferring to see the rates lower and will be looked at in the first part of the year.
- I am aware Reserved Judgments in the Supreme Court now stand at 31 and approximately half of these judgments are older than 90 days (since submissions etc. received) and will continue to be a focus for Judges in 2022.
- From an Island Court perspective, for a third year in a row, the clearance rate exceeded 100%, and with more resources being allocated to the Island Court this has resulted in a positive turnaround in registration and finalization of cases reflecting confidence building up in the Island Courts.
- Finally, with respect to the Magistrates Court, as mentioned earlier the Court took on a record number of filings – in excess of 2,600 and put great demands on our magistrates. With credit to them, they were able to increase their output during the year, and while the Clearance Rate did not achieve the targeted 100%, timeliness to finalize cases reduced.
- Over the last year, filing of PI and criminal matters have increased substantially with Police/SPD/OPP filing more cases in 2021, and we expect this trend to continue and will work closely with these agencies to ensure our readiness when their cases are brought before us.
- Finally, as we reflect on the performance of cases dealt with across the four jurisdictions, we will continue to drill into more specifics such as who appears before us – for example the age, gender, as well as the orders

and outcomes associated with the cases. The 2021 detailed analysis will appear on the website within the week.

- We have at our disposal more court performance indicators which allow us to assess the operation, impact and efficiency of our case management protocols and ensure greater transparency about the performance of the courts, and insights into case management.
- Our ability to reflect on the performance of the courts on a monthly, quarterly and yearly basis is a credit to the Chief Registrar and his team, and as I have mentioned in previous years, our ability to present to you, the Government and the Community, our 2021 performance analysis within the month of January is testament to the work of many.
- The details of the data information on numbers of filings, disposals, clearance rates, pending and timeliness, ect, are provided into the 2021 Data/Statistics and will be published at the court website and a copy can be obtained from the Registry of the Supreme Court and so I am not going to give them to you this morning as most will be involved with figures.

OVERVIEW OF DEVELOPMENTS IN JUDICIARY – 2021 AND FOCUS FOR 2022

1. Courts

Court of Appeal

- Courts of Appeal sessions were virtually conducted successfully in 2020 - 2021, thus allowing remote participation of Judges and lawyers overseas.

- The installations of video conference equipment in court rooms will continue to allow overseas judges to participate effectively in the Vanuatu Court of Appeal in 2022.

Supreme Court

- Appointment of Judge Edwin Goldsbrough was done in November 2021 for a period of 2 years.
- Judge Wiltens appointment was further extended to end June 2022
- Active Supreme Court Judges – 6 Judges

Magistrate Court

- 10 Magistrates active in 2022 with a recent appointment of Magistrate Philip Toaliu in December 2021.

2022 focus for Magistrate Court

- Because of the workloads of Luganville Magistrate's Court, temporary arrangement of 1 Magistrate to support Luganville, Santo, will continue in 2022

Island Courts

- A total of 40 new Island Court justices were trained and appointed to Ambrym/Paama Island Court and Ambae/Maewo Island court in 2020.

- Another total of 40 new Island Court Justices were also trained and appointed to Epi and Pentecost Island Courts in 2021.
- This focus will continue in the trainings and appointments in 2022 of Island Court justices for Banks/Torres and Erromago Island Courts in 2022.
- Certificate of Justice Program was completed in Santo with 6 completing the program and 4 ready to graduate to improve the quality of Justice in Santo & Malo Island Court.
- An Intensive 2 days refresher training on civil and criminal procedure rules, roles and responsibilities of the Clerk, Justices and Supervising Magistrate. It covers techniques of identifying issues especially of customary matters in Tanna Island Court.

2. Human Resource support to the courts administration

In 2021, we have recruited a number of court officers and supporting staff and we will continue with the recruitment in 2022 with a Technology and system officer and an Assistant Sheriff in Luganville, Santo. The recruitment of the Technology and System Officer is important in order to improve the quality of the case management system that we have already in place.

3. Library

- An increase in the 2021 Library budget has allowed for the increase of acquisitions of much needed Legal textbooks.

Court Website:

- Court Judgments continue to be published as they are released and they are also published in the PacLII, a total of 573 Court judgments were published in 2021.
- Each week the Court's Daily Listings are extracted from the Court's Case Management System and uploaded onto the Court website, displaying all the Courts listings throughout the country for the current year from January to December.

Court Archives:

- 20 Ft Storage/shipping containers was purchased and custom made metal shelving was created and installed in the Shipping Container which now houses Court records transferred from Santo.
- There is still the need to have more space and shelving available to store the growing number of cases files and court records.
- The focus for 2022 is to have Court records from the outer Islands transferred to Port Vila for safe – keeping.

4. Court Buildings

- In 2021, the newly refurbished Tanna Court building was launched.
- There was also ground breaking of the new Epi Court House project that has taken place at Rovo Bay, Epi Island.
- Supreme Court Court Hall of Justice -I am informed that Calibre Project Managers (CPM) was contracted in December 2021 in respect to the Supreme Court Hall of Justice to manage day to day delivery of the project of Hall of Justice through the entire project

cycle. The project management team will work alongside the VPMU (Vanuatu Project Management Unit) and the Steering Committee to procure and manage consultant Services and construction services. This is good news and we want to see the concept/design of the hall of justice so as to ensure that the Judges are properly consulted before the construction starts.

Needs for more court houses in the other provinces and Islands of Vanuatu

Penama province needs a new court building at Saratamata, Ambae.

Ambrym Court House is no longer safe for use. The Clerk has been relocated to an Office Space at the Area Council office to operate. There is a need for a court house there too.

Buildings and court residences that need repairs

- Renovations needed on Banks & Torres court house with Clerk residence
- Renovation of CR residence and Chief Magistrate Residence in Port Vila
- Renovation of Clerk residence in Tanna

We will seek help and assistance from the governments for these.

Other developments and activities carried out in 2021 to continue in 2022

1. IT devices due to COVID19 was introduced in Port Vila (Dumbea), used effectively for the COA sessions in 2020 - 2021 and were also introduced in other courts through True conference. I thank the government and its technical officers (OGCIO's great assistance). As

you are witnessing today Court officials, Chiefs and people in Luganville, Santo, virtually are following the opening of the legal year with us in Port Vila for the first time. The next year we will extend this privilege to Isangel, Tanna and Lakatoro, Malekula once the IT system is installed and improved to outer islands in 2022.

2. The introduction of the Remote Court hearing toolkit, developed regionally for all courts by the facilitation of PJSI – was also introduced to Vanuatu.
3. HR's office – The Performance Management System was introduced in 2021 and Staff Performance appraisal was conducted and proves success, is now accepted tool to be annually used within the institution to appraised staff annually – seen 2 in house training conducted for refresher for line managers conducting the staff performance appraisals.
4. The 2019 Family Violence Action Plan for the Magistrate courts – seen awareness conducted in conjunction with court circuits, seen perpetrators punished and seen DV judgements quarterly. Also seen good monitoring of court fines to ensure that perpetrators are held accountable.
5. Court User exit survey conducted for 2 weeks on the month of December in 2021 was a success. Thanks to all who participated, a report will be produced at the end of this month – January for internal improvements to court services and access.
6. The Certificate of Justice Programme – introduced to the lay justices of the Island courts; in 2021 it was conducted for Santo so 6 lay justices in Santo have gone through the program under Tutoring assistance from

the courts and have successfully reached its completion at the end of 2021 – now they are awaiting Emalus graduation to obtain their certificates.

7. Launching of Brochures in early 2021 (8 different brochures in 3 official languages, focusing on court processes in all three courts – 40,000 printings done with 80% in Bislama, the language in great demand - is a successful tool for court outreach. We will continue with 2 brochures this year.
8. Awareness – successful awareness carried out by court staff in conjunction with court circuits (the islands of Torres – SM Beverleigh, Pentecost – Judge Trief and Santo big-bay – Magistrate Setariki), and during court Orientation programs on outer islands (Pentecost & Epi), also awareness made possible through the SRBJs – the *Malekula cross sector legal awareness program* to Unmet, Lembinwen and Akham.
9. The courts have successfully participated in the PSC open day at Saratamata Ambae in 2021. It was a great success, seen court information dispersed to all different age group and an opportunity for court brochures distributed. We will continue with this.
10. The Judiciary has reached out to School curriculum – Under the right of Access to justice, the court has taken another step into entering the Educational system, seeing the final stages to be carried out this year and if all goes well we should see the introduction of law and the court system into the Senior Civic subject to be rolled out in 2023 starting into years 11 and continuous to years 12 & 13 in the coming years as an elective subject.

11. Law council: Continuous Legal Education for the legal profession (CLE), conducted 2 professional trainings at Dumbea, one by Justice Trief on '*Assessment of damages*' and one on '*Sentencing*' by Justice Gustaff – for all lawyers, public and private attended. This will continue in 2022 with the good will and participation of everyone.

5. Trainings specifics;

1. The continuous 2 annual judicial training for judicial officers has been successfully carried out – grouping all judicial officers together, the program design for common and separate sessions – seen a strong year for case finalisation end of 2021.
2. The continuous annual secretary training has been successfully carried out – taking all court staff around the courts to come together and common issues were addressed, discussed and agreed on ways forward – seen good data entries end of last year but needs more improvement in the Magistrate courts – as a result of good entries we can produce statistics for end of year reports. This includes Registry Training for the COA books (1) (2) – seen improvement in the filing of documents for the COA.
3. The continuous Island Court clerk training was successfully carried out and common issues discussed – seen improvements in case finalisation end of 2021 – confidence is building up in the island courts.
4. Sheriff Team trainings carried out twice in 2021, targeting the auction sale, serving of court notices and execution backlog – seen one trial in auction and an effective services of court notices but less address of backlog cases – a focus for 2022.

5. Refresher Training for Tanna lay justices on court processes – an urgent request for Training needs identified – seen disposal increased end of 2021.
6. Human Right checklist workshop successfully carried out for all court staff in different groupings for 2 days each, i.e the judges, the Magistrates, and the court staff with outer islands in the northern part joining through zoom from Santo office

6. On – going activities into 2022:

- Annually the Judiciary has issued A Management Improvement Plan – out of 54 total activities for 2021, 70% was successfully carried out, 19% on good progression (to continue to 2022) and 11% delayed (will be assessed to roll-over).
- In 2022 a Management Improvement Plan is issued – activities were reduced to 40 for better implementation.
- Family Violence Action Plan initiated in 2019 – will see more awareness in conjunction with court circuits and a focus to improve services of Protection orders in the outer islands and especially the remote areas and making sure orders are complied with.
- Certificate of Justice continuing to Tanna Island court lay justices in 2022.
- A continuous implementation of the draft Sheriff guide into 2022

- A continuous appointment for lay justices for Banks and Torres group, Erromango island court, and the Tafea outer islands.
- PJSI program has ended however, some activities will continue under the new Program – Pacific Justice Sector Program (PJSP) with more focus to Access to Justice, particularly supporting the work of the formal justice integrating with the informal justice services.

Need for on-going training and education for lawyers

- **The Public lawyers (State Law officers, Public Prosecution officers and Public Solicitor officers) are encouraged to continue with their Intensive Advocacy Skills Workshops;**
- **The Law Council in its educational section (CLE) has to continue to play its role in educating lawyers in the absence of an effective Law Society.**
- **There is a need to amend the Legal Practitioners Act in order to make those mandatory.**

Some reflections on Post Covid-19 justice needs

- We need to have a different mental set or mentality in order to deal with the justice needs of the ordinary people of this country.
- The question we should ask is how the post-pandemic justice system will look different and how it might even emerge from the current crisis better than before.

- Most importantly the use of digitalization will become the norm in short matters such as restraining orders protecting domestic violence victims, child protection determinations, bails applications – All by way of remote proceedings by telephone and videoconference.
- We need to reflect on the Civil Procedure Rules (CPR) whether there is a need for new amendments to adapt to the new situations.
- We need to focus on the Criminal procedure Code Act, whether any amendments are required to facilitate the post Covid-19 criminal justice needs and in particular whether it is feasible to hold criminal trials remotely?
- Finally, we need an Evidence Bill (Civil and Criminal) to encompass the Post Covid-19 Justice needs of the ordinary people with lesser costs involved.

That is all I have to say. I thank you for your attention.

I declare the court session for 2022 officially open.