

**2017 SPEECH
OFFICIAL OPENING BLO KOT
LO VANUATU**

HONOURABLE CHIEF JUSTICE LUNABEK

- **His Excellency Baldwin Lonsdale, President of the Republic of Vanuatu**
- **Hon. Esmon Sai, Speaker of Parliament**
- **Hon. Charlot Salwai Tabimasmas, Prime Minister of the Republic of Vanuatu**
- **Hon. Judges of the Supreme Court of Vanuatu and Spouses**
- **Magistrates of the Republic of Vanuatu and Spouses**
- **Hon. Ronald Warsal, Minister of Justice and Community Services**
- **Excellencies Members of the Diplomatic Corps**
- **Attorney General**
- **Ombudsman**
- **Public Prosecutor**
- **Public Solicitor**
- **Director Generals and Directors of Government Departments**
- **Commissioner of the Police (Acting)**
- **President of the 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**
- **Representative of the Churches**
- **Ladies and Gentlemen, Big Men and Women, Pikinini mo People blong Vanuatu**

Mi givem lo yufala Greetings blo ol Judges, Magistrates, Island kot Justices mo olgeta support staff blong Judiciary mo ol Kot blo Republic blo Vanuatu.

Lo behalf blo Judiciary, mi stap extendem wan warm welcome lo yufala lo opening blo legal year 2017. Mo mi wishim yufala wan blessed Happy New Year 2017.

Hemi wan privilege mo honor blo toktok lo yufala lo special occasion blo opening blo 2017 legal year. Mo mi talem bigfala thankiu icome lo yufala blo come.

Olsem oltaem yumi must reflect mo luk luk back lo ol gud something, ol nogud someting mo olgeta challenges we Vanuatu mo olgeta people blo Vanuatu oli go true lo ol yia we i pas. Yumi reflect back lo ol achievements, values, strengths mo weaknesses. Yumi mas reflect back agen lo olgeta mistakes mo weakness blo yumi mo yumi setem niu Direction blo future.

Mi makem hemia taem mi remindem yumi olsem mi stap makem lo olgeta past yia about direction we Judiciary blo republic blo Vanuatu hemi setem lo Vision blo hem, Policy statement mo olgeta reform missions blo hem.

Mi believe se Judiciary imas go true lo reform olsem wan institution. Judicial Reform ia bae oli undertaken lo national effort mo wetem scope blo enhancem independence mo core functions blo Judiciary mo blo enablem Judiciary blo become wan modern Judiciary lo basis blo Vision ia:

VISION BLO ADMINISTRATION BLO JUSTICE

Wan Judiciary we hemi independent, hemi effective mo hemi efficient, mo igat trust mo confidence, mo wan legal profession we i providem service we igat quality lo hem, wan legal service we hemi ethical, wan legal service we hemi accessible mo hemi cost-effective lo olgeta people blo yumi mo hemi willing mo isave ansarem call igo lo public service (blo achieve common good blo everyone).

POLICY STATEMENT

Judiciary, olsem institution we Constitution i designatem blo deal wetem every legal disputes inside lo democratic system blo government blo yumi, i must, ol taem, maintainem independence blo hem. Judiciary i mas remain immune from undue influence – mo hemi mas

respectem tufala nara Branches blo Government olsem Parliament mo Executive Government taem oli makem work blo ol lo proper fashion blo hem we law i setem. So hemi essential se Judiciary mo ol members blo legal profession (ol lawyers) olsem officers blo kot, oli highly competent mo oli gat high respect mo integrity.

Olsem Judiciary hemi servem people taem hemi dispensem justice, ol judges oli must fully accountable mo taem we oli requirem blo oli keepim confidentiality, then, oli must keepim. Ol members blo Judiciary mo kot personal oli must understandem mo acceptem constitutional fundamental tingting se public office hemi wan public trust.

Dishonesty, incompetence, inefficiency mo ol narafala kind blo behaviours we i no gud i no allow mo i no tolerate inside lo Judiciary or inside lo legal profession.

System blo administration blo justice i mas achievem goal blo deliverem justice lo wan fashion we hemi fair, impartial (no takem side) mo lo reasonable time. So, ol core value blo rule blo law, equal justice, judicial independence mo yumi traem ol taem blo casem level blo excellence. Hemia hemi wan priority blo yumi blo maintenem ol step ia.

2017 hemi wan new legal year. Yumi mas prepare mo luk forward lo hem. Ol past yia oli ol important historical yia blo law, people mo Kot lo Republic blo Vanuatu.

Lo special occasion ia, mi invitem yu blo reflect wetem mi lo impact blo law lo community, mo lo role blo Judiciary mo legal profession inside lo community.

IMPACT BLO LAW LO COMMUNITY, ROLE BLO JUDICIARY MO LEGAL PROFESSION INSIDE LO COMMUNITY

Mi makem speech ia lo opening blo legal yia 2016 taem we yumi openem Kot. Speech ia mi bin makem lo English language. Mi decide blo makem same speech ia lo bislama language wetem some review adjustment mo details blo ordinary Ni-Vanuatu people isave hearem, readim mo understandem.

Society blo Vanuatu i placem important value lo concept blo rule blo law olsem wan cornerstone or pillar inside lo community blo yumi. Hemi important blo yumi understanem legal system blo Vanuatu mo how yumi administrem justice. Mi talem hemia from se, lo level blo concept, hemia hemi purpose blo law. Legal system blo Vanuatu hemi base lo common law, some aspects blo French law and kot decisions lo customary law.

Fairness, transparency mo access lo justice oli ol characteristic we oli stap olsem foundation or stampa blo legal system blo Vanuatu.

Hemi important blo talem se ol key player oli includem olgeta we oli stap gat close connection wetem operation blo law, ol kot mo legal profession (ol lawyer). Be yumi mas givim importance tu lo understanding mo acceptance by everyone mo especially olgeta we oli gat influence or power (yumi mentionem government mo olgeta we oli stap inside lo Government) lo purpose blo law.

Law istap blo facilitatem well-being blo ol people blo Vanuatu mo society blo Vanuatu.

Law ino exist blo destractem life blo people mo society – yumi nid blo save some basic fundamental principles we oli necessary. Ol law oli regulatem ol activities mo complex interactions between ol persons mo institutions. Object blo law hemi blo enablem people blo Vanuatu mo family blo olgeta blo realisem ambitions blo ol lo best possible way, mo tu blo achievem mutual respect between everywan we i live inside lo community. Blo realisem ol object ia, hemi necessary blo gat wan infrastructure blo ensurem se ol object blo law ia i save fulfilem.

Infrastructure blo law i start wetem important requirement se every law oli must conform lo certain constitutional norms mo requirements.

Constitution hemi Supreme Law blo Republic blo Vanuatu (Art. 2). Every law lo Vanuatu oli mas conform wetem Constitution. Olsem we youfala i save, Constitution i setem out ol fundamental rights mo fridoms blo every person mo Constitution i protectem olgeta.

“ 5.

(1) *The Republic of Vanuatu recognizes, that, ... all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination...:*

- (a) life;*
- (b) liberty;*
- (c) security of the person;*
- (d) protection of the law;*
- (e) freedom from inhuman treatment and forced labour;*
- (f) freedom of conscience and worship;*
- (g) freedom of expression;*
- (h) freedom of assembly and association;*
- (i) freedom of movement;*
- (j) protection for the privacy of the home and other property and from unjust deprivation of property;*
- (k) equal treatment under the law ...*

(2) *Protection of the law shall include the following –*

- (a) everyone charged with an offence shall have a fair hearing, within a reasonable time, by an independent and impartial court and be afforded a lawyer if it is a serious offence;*
- (b) everyone is presumed innocent until a court establishes his guilt according to law;*
- (c) everyone charged shall be informed promptly in a language he understands of the offence with which he is being charged;*
- (d) if an accused does not understand the language to be used in the proceedings he shall be provided with an interpreter throughout the proceedings;*
- (e) a person shall not be tried in his absence without his consent unless he makes it impossible for the court to proceed in his presence;*
- (f) no-one shall be convicted in respect of an act or omission which did not constitute an offence known to written or custom law at the time it was committed;*
- (g) no-one shall be punished with a greater penalty than that which exists at the time of the commission of the offence;*
- (h) no person who has been pardoned, or tried and convicted or acquitted, shall be tried again for the same offence or any other offence of which he could have been convicted at his trial*

Article 95 blo Constitution i containem tu provisions wei help blo definem system blo law lo Vanuatu. Article ia i talem:

(1) Until otherwise provided by Parliament, all Joint Regulations and subsidiary legislation made thereunder in force immediately before the Day of Independence shall continue in operation on and after that day as if they had been made in pursuance of the Constitution and shall be construed with such adaptations as may be necessary to bring them into conformity with the Constitution.

(2) Until otherwise provided by Parliament, the British and French laws in force or applied in Vanuatu immediately before the Day of Independence shall on and after that day continue to apply to the extent that they are not expressly revoked or incompatible with the independent status of Vanuatu and wherever possible taking due account of custom.

(3) Customary law shall continue to have effect as part of the law of the Republic of Vanuatu.

Article 26 blo Constitution i makem reference tu lo ratification blo olgeta treaties we Government i negociatem, mo specially taem we ol treaties ia oli affectem status blo ol people. Ol treaties ia oli includim International Conventions. Vanuatu hemi ratifiem International Covenant lo Civil mo Political rights (ICCPR) we implementation blo hem bae i come true lo law we Parliament blo Vanuatu bae i passem. Yumi notem se plenty lo ol rights we mi bin refer lo olgeta oli stap inside lo ICCPR tu.

Taem yumi examinem content mo substence blo ol rights we oli stap lo ICCPR, yumi need blo recognisem tu ol International Jurisprudence. Wan lo olgeta rights ia hemi equality before lo law.

Concept blo equality hemi key lo wan understanding lo system blo law blo Vanuatu. Hemi important tumas blo understandem se law hemi apply same mark nomo lo every person. Ino

gat wan person or wan institution we hemi stap antap more lo law. Mo ol law oli applyem same mark nomo lo every person or institution taem oli stap lo same situation or condition.

So, Government hemi subject lo law olsem every wan else.

Ino gat wan special group, institution or person (olsem President, Prime Minister, Member blo .,Parliment, Chief Justice, Judge, Magistrate, Community Leader, Community Chief, Village Chief or Paramount Chief etc... we hemi above lo law mo above equal application blo law.

Equality hemi wan fundamental component blo rule blo law. Taem we yumi understanem mo acceptem principle blo equality, i mean se yumi gat respect lo rule blo law.

Hemia i takem mi come lo role we kot oli playem inside lo community.

Ol kot oli become active nomo taem we igat legal disputes we oli requirem adjudication. Hemia i happen lo criminal context taem we kot hemi mas determinem culpability blo wan person. I save happen lo civil context taem we civil rights, mostly about money or property, Kot hemi require blo resolvem. I save happen tu lo public context taem we rights blo ol parties we oli stap lo Kot hemi involve be more tu, public interest as a whole. Bae mi talem more about public law cases mo constitutional mo judicial review cases later.

Constitutional role blo Kot hemi clear inside lo Constitution mo ol Kot oli mas act independently. Independence blo Judiciary hemi contain inside lo Constitution (Art. 47). I gat plenty toktok lo independence blo Judiciary but hemi important blo repitim se wan Judiciary we hemi independent hemi fundamental lo existence blo rule blo law.

Nao mi move igo lo part blo infrastructure we hemi representem practice blo ol Kot. Hemia hemi every day activity blo Kot: Wanem ol judges oli makem taem oli dispensem justice, how ol judges oli makem taem oli dispensem justice mo how ol litigent (or party we oli come lo kot) oli accessem justice.

Role blo ol Kot blo determinem ol legal disputes hemi wan constitutional responsibility. Mi placem emphasis lo word ia “legal disputes” from se business blo ol Kot i blo determinem disputes follem law. Ol different type blo disputes we oli come lo Kot blo Kot i determinem oli arise lo different circumstances/situations mo ol motives o reasons blo ol cases we oli come lo Kot tu oli different. Despite hemia, as far as ol Kot oli concern, legal outcome blo dispute nao hemi relevant.

Olsem yufala i save good, mo point ia yumi putum emphasis lo hem plenty taem, ol Kot oli deal nomo wetem legal questions (question blo law) we hemi arise lo disputes lo Kot blo considerem.

Long end, hemia nao concept blo justice: yumi save, yumi comply lo law, legal principle mo lo spirit blo law.

Taem we ol judges oli handlem ol legal disputes, oli mas given fair consideration lo view points blo ol parties.

Fairness – hemi wan lo olgeta characteristics blo system blo law we hemi operate lo Vanuatu; mi bin identifiem before. Hemi requirem se everywan we oli come lo Kot, Kot hemi considerem fully mo properly every arguments blo olgeta. Sometaem yumi talem se every litigant oli must gat “day blo olgeta lo Kot”, but hemi more accurate blo talem se wan wan party igat right blo Kot i hearem hem. Hemia nao essence blo wan fair hearing. Ol disputes we oli come before lo Kot sometaem oli complex, oli requirem different viewpoints blo Kot oli carefully analyse ol before wan outcome we hemi stret kot isave givem.

Sometaem, hearing blo case bae hemi longfala mo hemi i reflectem lo judgment blo Kot, be reason blo hemia hemi showem se nature blo dispute hemi complex mo tu, need blo deal carefully mo fairly wetem ol arguments before lo Kot. Hemia wan indication igo lo public se Kot hemi reachem wan view after proper consideration mo Kot hemi act fairly. Wan losing party hemi entitle lo wan fair hearing mo hemi gat guarantee se ol Kot oli hearem case blo hem fairly.

Hemi important se work blo ol Kot mo way wei ol Judges oli handlem cases hemi open blo everwan i luk. Openness hemi wan objective indicator blo testem effectiveness mo fairness blo legal system blo yumi; yumi save talem se hemi wan measure blo rule blo law we i operate lo practice.

Transparency lo process blo Kot hemi critical tumas lo legal system blo yumi, mo hemia i makem se close up ol proceedings blo Kot i open lo public o lo publication blo close up ol written judgments blo ol Kot. Mi talem “close up ol” blo excludem few cases we subject matter hemi sensitive tumas makem se ino lo public interest blo hearem ol lo public.

Transparency lo ol activity blo ol Kot i providem wan objective tool wei hemi useful blo measurem effectiveness blo legal infrastructure we mi describem before. Be imas gat tu access lo justice. Hemia last wan lo trifala characteristic blo legal system blo yumi we mi mentionem.

Yumi gat wan user-friendly mo effective procedure blo Kot we hemi exist istap. Oli contribute lo access lo justice mo hemi one lo ol main reasons blo Civil Justice Reform we yumi makem fifteen years ago since 2002. Yumi save measurem hemia objectively. Plenty people oli gat different points of view blo olgeta – mo oli entitle or oli gat right blo gat ol points of view ia – but lo end blo day, only way wei i proper blo assessem ol views ia weta oli positive or negative, i blo assessem lo wan objective way. Yumi save measurem access lo justice taem yumi refer lo existence blo legal assistance through lo work blo ol laywer mo public legal institutions. Legal assistance we oli providem over past yia oli necessary access to justice lo plenty people we oli pass lo ol Kot. Ol people i includem ol person wei oli gat problem lo home blo ol (matrimonial dispute) mo ol narafala people wei oli needem protection blo law be oli no gat money blo takem private lawyer (legal representation).

Bae mi nao tokbaot public law mo judicial review cases. Lo side blo public, hemi lo public law cases or judicial review type cases we trifala important characteristics blo fairness, transparency mo access lo justice yumi save testem mo witnessem lo work blo Kot. Most every taem, public law case hemi involvem constitutional principles we oli stap lo issue mo oli

involvem public interest. Since 1980, ol Kot blo Vanuatu oli deal wetem plenty important constitutional mo public law issues.

Public law cases olmost every taem, oli deal wetem fundamental rights mo freedoms blo ol individual member blo community mo group inside lo community we Constitution i protectem. Oli reflectem values blo society. Taem we yumi save mo aware moa lo rights mo liberties we yumi gat, i mean se lo public domain, people mo community oli expect se i gat proper responsibility mo accountability lo ol decisions wei i affectem every day aspect lo life mo activity lo Vanuatu.

Taem we yumi tok about proper responsibility mo accountability lo public domain yumi callem good governance. Mo good governance hemi wan term we i shoem se yumi live mo acceptem ol requirements blo law mo spirit blo law. Hemia i mean se hemi coveremup concept or idea blo rule blo law. Ol kind case ia oli abaot constitutional challenge mo judicial review case oli involvem government or wan department blo government mo sometaem oli involvem tu narafala public institutions or bodies. Lo judicial review or constitutional case, public interest hemi engage everytaem. Mo Decisions blo Kot lo kind case olsem ia i affectem wider public i no affectem nomo ol immediate parties lo Kot.

Sometaem, decisions blo Kot lo important constitutional cases or judicial review type cases oli directly affectem whole community.

Wan decision blo Kot lo public law issue hemi wan guide lo good governance, weta yumi luk lo context blo ol past events or more importantly lo future. Sometaem i gat inconvenience but lo constitutional challenge mo judicial review case oli servem public interest mo oli facilitatem ol well-being blo society blo yumi. Yumi mas properly recognisem status ia.

So hemi precisely from se public interest hemi engage lo way ia so taem we Kot i deal wetem constitutional question or judicial review case, Kot bae hemi anxious blo ensurem se every proper legal arguments oli allow blo considerem before Kot i makem wan decision. Hemi from se lo public law case, every taem ol different rights mo liberties oli operate lo different directions, so ol Kot oli facem difficult mo complex arguments. Olsem lo any case, wan judge i

must fairly hear every point of view. Mi bin earlier refer to aspect of fairness of the way justice is administered inside the Kot. Of the Kot we hear of constitutional applications in the same way we hear of judicial review cases. Taem we public interest cases involve the Kot, we must hear and consider every point of argument before the Kot makes a decision.

There is also the fact that we must consider the nature of the case which involves constitutional or judicial review of political, economic or social factors which form part of the background of the cases. However, of the judges we must remember that plenty of the time, the Kot involves legal questions which arise in the cases. These are not relevant to the Kot which enquire into the motives of the parties before the Kot and these are not helpful in reaching a proper outcome.

My repeated point is: in judicial review cases the issue is about legality and not about merit or in other words the merit of the political, economic or social argument.

There is a reason for this in judicial review or constitutional cases, the Kot must take particular care to ensure that the cases which are brought before the Kot are proper cases. In a constitutional case or judicial review case, the Kot must give permission before the case is instituted. Taem we of the standard which is required to satisfy the Kot in the process of considering the arguments in the same way as in any other cases which arrive before the Kot, we must ensure that the result is in accordance with the law. The law is the standard which must be followed to ensure the result. We must not open ourselves up to the possibility of making our own judgment.

So the law is important in Vanuatu that is why it is crucially important to have a high quality Judiciary which must meet the highest possible standard.

It is time to give a brief overview of the way justice is administered in Vanuatu. We must save the time to improve the legal system which we believe is the structure which we must have in place. We welcome greater public awareness of the legal system which we have, from the inside we must have the assurance of utility and acceptance of the rule of law. We must have justice and peace which we must have in Vanuatu.

NEEDS BLO JUDICIARY MO STEPS BLO TAKEM LO 2017

1. Hall of justice building we i pending since lo fire destruction lo 2007. Government I gat responsibility blo makem wan something lo Hall of Justice Building.
2. Kot accommodation lo Luganville hemi seriously needim wan niu location o wan proper building blo accommodate ol service blo kot lo Luganville, Santo.
3. Ol kot houses lo ol island oli needim repair after cyclone Pam lo 2015.
4. Customary land cases.
 - Under lo law blo Custom Land Management Act i bin gat appointment blo 1 Supreme Court Judge blo preside over lo ol review lo Island kot (Land) we oli come from decisions blo ol Nakamals. Ol Island kot clerk tu lo every province lo Vanuatu oli takem appointment olsem Registrar blo Island kot (Land). Government I mas fundem Island Kot (Land) blo makem se hemi makem ol work blo hem. Mo I gat bigfala need se Government i mas properly trainem ol local chief we oli gat bigfala responsibility lo ol Nakamals blo oli understandem role blo ol. Sipos oli no properly trained bae I gat serious risk blo injustice we bae I happen lo level blo tribunal ia.
 - Bae I gat 1 Judge blo Supreme Court tu blo focus mainly wetem ol appeal we istap yet under Island Kot Act [Chapter 167] mo ol senior magistrate bae oli given power blo deal wetem custom lo ol pending land case under lo Island kot Act.
5. I gat need blo developem wan evidence act . Bae yumi traem blo makem lo 2017.
6. Lo 2017, Judiciary bae hemi developem wan complaint handlind procedure against ol judicial officers olsem wan integrity process.
7. Mi acknowledgem mo mi talem thank you lo Government blo Vanuatu blo helpem Judiciary mo public legal institutions blo setting up base salary blo ol Magistrate, Judge mo ol lawyer lo public institutions.
8. Mi talem thank you lo Government blo New Zealand lo side blo assistance blo ol lo Judiciary wetem provision blo 1 Judge – Justice Paul Ghogeghan.

9. Mi talem thank yu tu lo Australian Government blo assistance we oli givim lo legal mo justice sector mo police lo Vanuatu.

Mi nao providem lo you summary events blo 2016 mo statistics lo work blo ol Kot lo yia 2016.

Statistical Analysis for 2016

1. Declining Registration

The volume of cases registered in the court system in 2016 declined by up to 7% but is matched with a corresponding percentage of decline in disposition of cases by the courts.

- I. Court of Appeal – completed cases in 2016 – 71
- II. Supreme Court - Completed cases in 2016 – 663
- III. Magistrates Court – completed cases in 2016 – 2001
- IV. Island Courts – completed cases in 2016 – 463
- V. Sheriff Office – did 22 executions of Warrants

2. Cases Registered, Disposed of, and Pending

a. Overall number of Cases

	Registered	Completed	Pending
Court of Appeal	69	69	7 pending since November 2016
Supreme Court	689	607	1230
Magistrates Court	2135	1983	1570
Island Courts	681	437	593

b. Civil Cases

	Registered	Completed	Pending
Supreme Court	260	240	709
Magistrates Court	226	194	438

c. Criminal Cases

	Registered	Completed	Pending
Supreme	177	158	124

Court			
Magistrates Court	1079	1036	773

3. Criminal Cases Disposed of in the Supreme Court

Case Owner	Supreme Court					
YEAR	(All)					
Case Type	Criminal					
Count of * Outcome :		Column Labels				
Row Labels	Committed	Dismissed	Nolle prosequi	Order (blank)	Grand Total	
DRUG OFFENCES				8	8	
FAMILY PROTECTION ACT OFFENCES			1	1	2	
FRAUD OFFENCES				3	3	
MISLEADING JUSTICE OFFENCES				1	1	
OFFENCES AGAINST MORALITY		4	5	51	60	
OFFENCES AGAINST PROPERTY				7	7	
OFFENCES AGAINST PUBLIC INTEREST				1	1	
OFFENCES AGAINST THE PERSON	1	2		12	15	
OFFENCES AGAINST TRAFFIC				3	3	
PUBLIC ORDER OFFENCES				1	1	
WEAPONS OFFENCES				1	1	
Grand Total	1	6	6	89	102	

- I. Category of Offences of highest occurrence is Offences Against Morality – 60 cases
- II. Second is Offences Against the Person – 15 cases
- III. Drug offences comes third

4. Criminal Cases Disposed of in the Magistrates Court

Case Owner	Magistrates Court							
YEAR	(All)							
Case Type	Criminal							
Count of * Outcome :		Column Labels						
Row Labels	Committed	Dismissed	Nolle prosequi	Order	Transfer	Withdrawn (blank)	Grand Total	
DRUG OFFENCES	2			2		4	8	
ESCAPES AND RESCUES OFFENCES		1		6		1	8	
FAMILY PROTECTION ACT OFFENCES		14	1	117	1	46	179	
FORGERY OFFENCES				2		1	3	
FRAUD OFFENCES		3		8		6	17	
JUDICIAL ORDER/COURT OFFENCES		1		2		3	6	
MISCELLANEOUS OFFENCES		4	1	6		11	22	
MISLEADING JUSTICE OFFENCES						2	2	
OFFENCES AGAINST ANIMALS		2				6	8	
OFFENCES AGAINST MORALITY	1	2		1	1	6	11	
OFFENCES AGAINST PROPERTY	5	38	3	104	6	60	216	
OFFENCES AGAINST PUBLIC INTEREST		3		50		43	96	
OFFENCES AGAINST REPUTATION		10	1	19	1	23	54	
OFFENCES AGAINST THE PERSON	1	17	3	104	4	62	191	
OFFENCES AGAINST TRAFFIC		1		23	14	20	58	
PUBLIC ORDER OFFENCES				2		4	6	
TELECOMMUNICATIONS OFFENCES				1			1	
WEAPONS OFFENCES		1		2		1	4	
LIQUOR LICENCING OFFENCES				1			1	
Grand Total	9	97	9	450	27	299	891	

- I. The highest number of criminal cases prosecuted in the Magistrates Court are:
- II. Offences against Property – 216 cases
- III. Offences against the Person – 191 cases
- IV. Offences under Family Protection Act – 179 cases
- V. Offences against Public Interest – 96 cases

5. Some Analysis

- VI. With the introduction of our Court Management System, we are now able to better manage our caseload, and have a very detailed picture of our filings/registrations, our disposals, and importantly our pending workload. For all of our matters, we now know how long matters are taking, and where cases are up to, and who they are with. This is crucial information for me as Chief Justice to ensure priority and resources are directed to where needed most.
- VII. Indicators such as clearance rate, that is – how many cases we dispose of against how many new cases we receive, timeliness, age of pending cases, and importantly – our pending workload expressed as a projection of how many years worth of work we have. All these indicators are now available to me via ‘my dashboard.
- VIII. Our focus during 2016 has also extended to the charges presented to the Court in criminal and PI matters. While further work is needed in 2017 to analyse/assess the length of sentences etc. given per type of crime, we know have a very strong insight into the volume, and means of disposal for charges presented. Also – we are now capturing gender and age of the accused, and this will be extended to the victims in 2017.

a. Criminal Charges

I. Since going live in late 2015, we have recorded over 3500 specific charges, against approximately 1700 cases (Criminal and PI) – roughly 2 charges per case on average

a. Of these charges, just over 2300 were for matters newly registered in 2016

II. We also know that for these 3500 charges, approximately 2100 individuals were presented to the Court, with males accounting for just over 90%. During 2017, we will extend our data capture to ensure we have the age/Date of Birth for all accused, and also the victim(s)

b. Case Outcomes

I. Where offences have been recorded against criminal cases (excluding PI matters) – almost 1000 cases, we can now see the overall means of disposal by jurisdiction (e.g. Supreme Court), or by Category of crime (e.g. Offences against the Person)

II. We can also extend the analysis down to any one of 3500 charges.

III. So we now have a much better understanding of the rate of dismissal/withdrawn matters compared to those determined by the court e.g. guilty/not guilty

IV. This level of analysis also applies to PI matters presented to the Magistrates Court – just over 200 matters last year

c. Highlights – Case Level Analysis

I. With respect to case outcomes:

a. Across both MC and SC – 57% of matters had an order made, while just on 40% of matters were either withdrawn or dismissed

i. This ratio varies dramatically between the two courts, and for the Magistrates Court, the high rate of withdrawn/dismissed matters is of concern to me and the Chief Magistrate, and we will be focussing on this issue with other agencies.

ii. I am pleased to say the ratio of withdrawn matters is very low in both the Supreme Court and for PI matters

b. We also now know the make-up of matters, e.g. the Category of crime, and Family Protection, Offences against Person, Offences against Property and Offences against Morality make up 70% of the 1700 cases were we now record charges

d. Highlights – Charge Level Analysis

I. As mentioned – some 3500 specific charges have now been recorded in our CMS, the majority for 2016 matters

- a. Of the 2350 charges recorded in 2016, approximately 1300 have now a recorded outcome

II. As mentioned earlier, when it comes to specific charges/cases in the Magistrates Court, we are concerned about the rate of withdrawal, and for example, we now can see very clearly which charges have such a high rate e.g. malicious damage.

- a. On the other hand – Offences against Morality (which includes Unlawful Sexual Intercourse), these charges have a very low rate of withdrawal
- b. We can also now start to see the rate of guilt at the specific charge level, and again, for the charge of Unlawful Sexual Intercourse, a guilty verdict was found in 66% of the time

6. Civil Cases disposed of in the Supreme Court

Case Subtype	Judgment/Decisions	Settled	Withdrawn
Civil	174	22	3
Civil appeal	13	0	2
Adoption	21	0	2
Company	5	4	1
Constitutional	5	1	0
Election Petition	14	0	0
Judicial Review	25	3	4
Land Appeals	4	0	0
Matrimonial	4	0	0
Probate	64	0	4

- i. Out of all the civil nature cases that were dealt with by the Supreme Court, 9% were settled, and 5% were withdrawn/discontinued.

7. Civil Cases disposed of in the Magistrates Court

Case Subtype	Judgments/Decisions	Settled	Withdrawn
Civil	143	10	41
Civil appeal	5	0	1
Coronial	2	0	0
Domestic Violence	197	19	170
Matrimonial	37	0	3

- i. Out of all the civil nature cases that were dealt with by the Magistrates Court, 7% were settled, and 56% withdrawn/discontinued

8. Geographical Spread of Court Operations

- I. However, there is a healthy indication of the court's operation in the court centres around the country as a result of the implementation of a court circuit program
- II. The Supreme Court completed the majority of criminal cases in Port Vila but dealt with 43 in Luganville; 20 at Lakatoro; 5 at Isangel; 3 on Ambae; 6 on Epi; one each on Ambrym; Sara; Sola
- III. Similarly, access to the Magistrates Court for Protection Orders is shown to have improved
- IV. Magistrates Court Domestic Violence cases pending – 330 cases
- V. Magistrates Court completed Domestic Violence applications– 696 – Port Vila – 369; 193 on Santo; 60 at Lakatoro; 3 on Ambae; 16 at Banks/Torres; 53 [few in other locations] 2 on Pentecost

9. Customary Land Disputes

- I. Pending customary land disputes in the Island Courts – 41
- II. No customary land dispute was disposed of in the Island Court
- III. Land Appeals completed by the Supreme Court – 4 cases
- IV. Pending Land Appeal in the Supreme Court – 49 cases
- V. IC pending chief title disputes – 37 case

10. Average Duration of Cases

- I. Supreme Court
 - a. Average duration of criminal cases – 150 days
 - b. Average duration of civil cases - 840 days
- II. Magistrates Court
 - a. Average duration of criminal cases – 193 days
 - b. Average duration of civil cases – 838 days

11. Overall Pending Cases

- I. Supreme Court – pending – 1230 cases
- II. Magistrate Court – 1570 cases
- III. Island Courts – 593 cases