



Office of the Ombudsman  
Bureau du Médiateur  
Ofis blong Ombudsman



# ***THIRD ANNUAL REPORT***

**1997**

TO

**PARLIAMENT**

BY THE

***OMBUDSMAN***

OF

**THE REPUBLIC OF VANUATU**

(in accordance with Section 63(5) of the Constitution)

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# 1 MESSAGE TO THE PEOPLE

**“Where there is no vision, the people perish, but he that keepeth the law, happy is he ....” Proverbs 29 v 18.**

- 1.1 In my introduction to our 1996 Report to Parliament, I stated, *“It is my hope that one year from now, we will be able to look back on this dark period as the beginning of more open and representative government, and a gradual move into a more prosperous and contented era.”*
- 1.2 When we look at the situation now, one year later, it is not easy to feel reassured that all is well. There has been no shortage of good intentions expressed, of plans drawn-up, or of meetings of committees of interested parties. But the question of actual achievement or progress -- as opposed to words -- presents a different picture.
- 1.3 There is little doubt that many more citizens have been alerted to the urgent need for change and that awareness has taken the form of letters to the press from members of the public and statements of support from leaders of religious and civic groups. There has been an encouraging and increasing wave of support for the work of the Ombudsman's Office, which is in no doubt related to the 700% increase in the complaints received from members of the public.
- 1.4 We have also been encouraged by Court decisions in favour of the Ombudsman when leaders were ill advised enough to attempt to challenge the powers or actions arising from our investigations of wrong doing.
- 1.5 The emergence of the Comprehensive Reform Program (CRP) has also indicated clearly the need for drastic reformation and change, although there is much confusion and little genuine optimism on the part of the public as to what this will mean in real everyday terms. Phrases like “structures reform” or “economic re-evaluation” seem vague and un-connected with the public perception that the Ombudsman's Reports have already demonstrated a clearly recognisable characteristic which requires no re-structuring or re-evaluation: namely the outright breaking of existing laws -- criminal, civil and moral -- by certain leaders.
- 1.6 While outside aid is welcome on almost any terms, and sound help from experienced advisers desperately needed, all will come to naught if the question of lawlessness from the highest places down to the lowliest youth breaking into houses, shops and cars is not dealt with urgently and effectively.
- 1.7 The public is aware of long delays in charging offenders and bringing them to Court. The Police express disillusionment over the fact that even when they do act appropriately and have the offenders tried, the sentences are either inappropriately light, pardon is granted, or no prosecution occurs at all.
- 1.8 It is common knowledge that, for most of the last year, the Public Prosecutor has been provided with security, presumably because of fears that there will be a back-lash from the accused. The situation is not helped by the lack of experience and ability of the prosecution personnel.
- 1.9 There is an ongoing campaign to attempt to discredit the Ombudsman. I myself have been advised to accept security protection since my family and I may be at risk. For my part I have been reluctant to accept that, in this Christian country, those whose duty is to attempt to ensure clean and honest standards in Government are to be silenced by threats or by actual attack.



- 1.10 On the positive side, there has developed an increasing willingness of those people who are under investigation by the Ombudsman to co-operate when requested. This is a welcome change from the response of resistance, arrogance and insult which was the regrettable early reaction of many recognised as leaders.
- 1.11 This encouraging trend will be helped by the awareness that leaders bringing frivolous charges against the Ombudsman may be responsible for paying their own legal bills, instead of using public funds to protect themselves.
- 1.12 We have been greatly encouraged by the efforts of the Public Service Commission to put its house in order, by following correct procedures and guidelines in making their appointments and decisions. There are clear signs too that the VNPf (Retirement Fund) is moving along a more trustworthy path. These are two crucially important institutions in the life of Vanuatu and must act in a way that is beyond reproach.
- 1.13 Finally, one matter which continues to cause disappointment is the delay and uncertainty surrounding the legislation of the leadership. There has been talk of changing it, reviewing it, diminishing it, etc, but no date has been given for finalising its passage into law.
- 1.14 The terms of the Leadership Code were discussed and agreed in 1995 following a Memorandum and Understanding with the Papua New Guinea Government, our Melanesian neighbours. A draft was remitted by the PNG representative officially to the Vanuatu Government in August 1995. It would be a regrettable backward step if its provisions were to be diluted and rendered ineffective. A strong clear and comprehensive code will be an absolutely vital tool if any Reform -- Comprehensive or otherwise -- is ever to take place.
- 1.15 Only in this way will the wrong ideas regarding the use of power be corrected. It will mark a valuable step forward in illustrating clearly that leaders must act on behalf of the public and in the interests of the public, being fully accountable to observe the requirements of Law and Constitution as servants and bound by duty. There is no greater honour and it must not be taken lightly.
- 1.16 Periodically, I hear some criticisms that I act too rigorously and without sufficient mercy in my Recommendations. This impression is contradicted by the fact that, of all the Recommendations made, less than 10% have been followed by any action!
- 1.17 Since my allegedly "tough" approach has had so little result, it is difficult to see how a "milder" stance would result in more definite action. It appears that a stronger course than mere "Recommendations" is necessary if appropriate and effective measures are to be taken.
- 1.18 Meanwhile, I would emphasise that Vanuatu appears to stand at a crossroads in its development which requires great care, great resolve and clear decisions as to where the future lies.

## **2 OUR ROLE AS OMBUDSMAN IN VANUATU**

### ***How did Vanuatu get its Ombudsman?***

- 2.1 In our 1980 Constitution, the People of Vanuatu gave to themselves an Ombudsman. There are Ombudsmen in many other countries in the World but the Ombudsman in Vanuatu has wider powers. Our Ombudsman institution follows the Melanesian type started in Papua New Guinea, which is also a constitutional position.

## ***What does the Ombudsman's Office do?***

### **Maladministration**

- 2.2 The Ombudsman and her officers look into the public's complaints about government departments. The Ombudsman's Office does this to help the government know about the needs of the People of Vanuatu.
- 2.3 The Ombudsman's Office does this by pointing out to government bodies the cases of injustice that a member of the public may have experienced. By doing this, the Ombudsman helps the government and public servants to stop unfairness and discrimination by the government when they run the country for us; another word for this is to stop "maladministration".
- 2.4 The Ombudsman's Office can also look into allegations of maladministration without receiving a complaint. For example, the Ombudsman may hear something on the radio or read something in the newspaper that might be a case of maladministration. Maladministration is the usual work of Ombudsmen throughout the countries of the World.

### **Leadership Code**

- 2.5 In Vanuatu, like in Papua New Guinea, the Ombudsman also has the job of helping the country's leaders follow the Leadership Code. The Leadership Code is found in the Constitution and gives some general rules that all leaders must follow. Basically, the main point of the Leadership Code is that leaders cannot use their public office for private benefit or gain. The purpose of the Leadership Code is to make sure the leaders serve the People and not themselves. They must behave in a straight and honest fashion.
- 2.6 Here are basic examples. Suppose an elected representative or an official person ("a big man" or leader) got hurt in a car crash on a weekend. That Minister must not ask the government to pay for him to fly to a hospital in Australia for medical treatment. To do so would be a clear breach of the Leadership Code. That is tabu. A leader is just like everyone else and must pay for his or her personal expenses: in this case the medical treatment and the plane flight. Another example: a leader must not accept money from a foreign (or local) businessman or businesswoman to get help to start his or her business in Vanuatu or to obtain any necessary permit or authorisation. This is something about which political leaders must be very careful, especially before an election.

### **Language rights**

- 2.7 There are three official languages in Vanuatu under our Constitution: Bislama, English and French. When you go to a Government department or body (such as VNPF or Labour Department), you have the right to talk with a public servant in the language you want. If you cannot get service in the language you want, the Ombudsman can look into this for you. A separate report is prepared on the respect of language rights in accordance with section 64(3) of the Constitution.

## ***How do you to make a complaint?***

- 2.8 If your problem is about one of the three things above -- maladministration, a breach of the Leadership Code or a violation of your language rights -- you can make a complaint to the Ombudsman's Office. You can do this in three ways:
  - (a) By coming to see us: Top Floor, Pilioko House, Kumul Highway, Port Vila
  - (b) By telephoning us: 27200

(c) By writing to us: PO Box 126, Port Vila or fax 27140

- 2.9 Because lots of grassroots people are now making many complaints to the Ombudsman's Office, we ask that you get an Ombudsman's Office Complaint Form and write out the details of your complaint on this form. This assists us in helping more people because it is faster for us to read your story written down than for us to hear it. If you have a friend who cannot read or write, we can still see them at the Office and hear their problem. We therefore ask all school educated members of the public to tell this to their non-school educated friends.

***What happens after you have made your complaint to the Ombudsman's Office?***

- 2.10 If the Ombudsman decides to look into your problem, the Ombudsman's Office will tell you. Sometimes it will take six weeks from the time we receive your complaint till the time that we tell you if we can look into your problem. The Ombudsman's Office's work is all made in private. This means we cannot tell what we are doing when we are looking into your problem. Our law, the Ombudsman Act, says that is tabu and we must follow the law.
- 2.11 After we have finished looking into your complaint, we will tell you the result and our recommendations to stop or address your problem. Sometimes we might not agree with you that the government department or leader has done anything wrong. We will tell you this too.
- 2.12 Sometimes, with difficult cases, it may take the Ombudsman's Office more than 12 months to finish looking into a complaint. This may result in a public report containing specific recommendations, which most of you will now know about or even have read. These public reports are free to members of the public. You can come to the Ombudsman's Office or write to us and get these for your family or village. School educated people have the special job of making sure all non-school educated people know what the reports say. We have handed over or mailed 15,550 reports to people. These reports are available in French, English and Bislama.

***Matters on which we cannot help you; who can?***

**Private rows**

- 2.13 If your problem is:
- (a) with a private person or business (eg someone owes you money); or
  - (b) with your family, or your boss, or your neighbour
- we cannot help you.
- 2.14 For:
- (a) money owed to you, see a lawyer or the Public Solicitor
  - (b) sackings or problems with your boss or department (unpaid wages), see a lawyer, the Public Solicitor and/or the Labour Department.
  - (c) Criminal matters (such as your neighbour spoiling your garden or house or stealing your fowls or pigs), see your Chief or go to the Police.
- 2.15 In cases of domestic violence (wife beating and child abuse), make a complaint to the Police (ask to "press charges") and then ask the Public Solicitor for a restraining order. (The Ombudsman can help if the Police do not act.)



- 2.16 Wife beating and abuse of children (especially sexual abuse) are against the Bible and the laws of Vanuatu. They are very serious crimes for which you can go to jail. These things are therefore tabu.
- 2.17 If someone is beaten by their husband or a child is abused, you **must** tell the Police even if the victim does not. If the Police do not look into it and do not take the complaint seriously, you **must** tell the Ombudsman's Office. Where the Police have not acted, the Ombudsman will talk strongly to the Police and make sure that they look into the complaint with no more delay. The Ombudsman's Office asks all chiefs and church leaders and members of the community to help reduce this serious problem for the sake of all ni-Vanuatu. Those in the bush or outer islands where there are no police have a special responsibility to do this.
- 2.18 The Ombudsman's Office also suggests that victims of beatings or abuse at home can get help from the Women's Refuge Centre. The people there may be able to get you a safe place to sleep until you are ready to go home again.

***Addresses of the other people who can help you***

Public Solicitor's Office  
PO Box 794  
Pt. Vila

Phone: 23450, 23451

1<sup>st</sup> floor above El Gecko Restaurant

**\*\*Every Monday, 8-11am, the office offers brief legal consultations for 500 vatu\*\***

Department of Labour (Vila Office)  
PMB 022  
Pt. Vila  
Phone: 22610

Department of Labour (Santo Office)  
PO Box 003  
Santo  
Phone: 36335

Police Headquarters, Vila  
PMB 014  
Pt. Vila  
Phone: 22222

Dist. Police H-qtrs, Santo  
PMB 118  
Santo  
Phone: 36222

Malekula: Lakatoro  
Police Station  
Phone: 48408

Tanna Police Station  
Phone: 68658

Lamap Police Station  
(no phone)

Epi: Epi Police Post  
(no phone)

Ambae: Saratamata Police Station  
(no phone)

Banks & Torres:  
Sola Police Post  
(no phone)

Tongoa Police Post  
(no phone)

Ambore Police Post  
(no phone)

Vanuatu Women's Center  
PO Box 1358 Pt. Vila  
Phone: 25764

## 2.19 New approach to complaints:

The Office has introduced a mediation process. Respected members of the communities will mediate disputes or problems on behalf of the Ombudsman. This is for complaints that can be sorted out by mediation as the parties appear willing to resolve the matter before it reaches the stage of public report. We have already used a mediator on a complaint made against the Police.

## 3 THE OFFICE OF THE OMBUDSMAN'S YEAR 1996-97

### 3.1 Highlights of the year October 1996 to November 1997

<u>DATE</u>	<u>EVENT</u>
November 1996	<b>Bank Guarantees Report:</b> The Ombudsman issued a report in July 1997 on the illegal issuance of ten "Bank Guarantees" for USD \$100 million by Prime Minister Korman, Minister of Finance Barak Sope, Governor of Reserve Bank, S. Ngwele, which were recognised by specialists to be part of a scam (the Court confirmed this in October 1997). To the considerable relief of the whole country, the ten "Bank Guarantees" were handed over to Prime Minister Vohor by the then British High Commissioner. The documents formed exhibits in the trial of Mr Peter Swanson. This occurred despite efforts by Minister Barak Sope to obtain possession of the documents for himself (refer 6.1 below).
November 1996	<b>Invitation to speak to law students from the Pacific Region about the role of the Ombudsman:</b> The Ombudsman and the Director of Language Rights spoke on the originality of the Melanesian Ombudsman model as compared to the traditional Ombudsman model.
December 1996	<b>Address to the local journalists:</b> Late last year Vanuatu's journalists formed the Vanuatu Press Club. The Ombudsman and Legal Counsel spoke to a group of 15 journalists about the role of the Ombudsman and constitutional rights, particularly freedom of the press and parliamentary privilege. This was most well received and many questions were asked. The Ombudsman's Office's meeting with the journalists followed one with Mr Vincent Lunabek, Acting Chief Justice, regarding separation of powers.
March 1997	<b>Legal Counsel obtains donation of law books for Acting Chief Justice.</b> Two New Zealand companies, Brookers and Butterworths, kindly donated a set each of the NZ Court rules to help the Acting Chief Justice's work towards getting modern and simple rules for Vanuatu's Courts.
April 1997	<b>Budget increase:</b> The Government continued its support for the Ombudsman's office by increasing the budget from VT 21 million to VT 28 million in 1997.

May 1997	<b>Conference with United Nations:</b> The Ombudsman made a presentation on <u>The Need for Accountability in Public Life by the Public's Representatives</u> in a conference held in Nadi, Fiji, on 15-16 May on Governance for Sustainable Development in the Pacific Islands. The conference led to a major additional aid project for Vanuatu on Governance in Vanuatu for Sustainable Growth and Equity.
June 1997	<b>First Conference of Ombudsmans and Mediateurs of Francophonie:</b> The Ombudsman attended this conference in Quebec from 9 to 12 June 1997, and presented two speeches, one on the specificity of the Melanesian Ombudsman and one speech on <u>The Ombudsman as a key to Social Peace</u> . (Enclosure A)
June 1997	<b>Co-ordination of the first training seminar for Vanuatu's Parliamentarians:</b> The Ombudsman's Legal Counsel worked with Mr Cleaver Elliott and Hon Mrs Margaret Shields to present this very worthwhile seminar to help parliamentarians develop their skills. The seminar saw MPs from all political parties working together.
June 1997	<b>Hosting and presentation for Government Department Directors.</b> On Friday 13 June 1997, Mr Raymond Aupy, our Language Rights Director, Mr Pasa Tosusu, our Director of Investigations, and an investigator, Mr Alfred Maho, conducted a successful workshop for all directors of government departments and senior management at the Government Training Centre. The overall topic was statutory compliance. They also addressed: <ul style="list-style-type: none"> <li>• Language rights and obligations</li> <li>• The role of the Ombudsman</li> <li>• The procedure in an Ombudsman enquiry</li> <li>• Ethics and its Role in Institution Building</li> </ul>
July 1997	<b>Pina Award to Ombudsman:</b> The Pacific Islands News Association awarded its prestigious Freedom of Information award to the Ombudsman in recognition of her reports that had fearlessly raised public awareness about the misdeeds and maladministration occurring in by some of Vanuatu's ruling elite. The President of Vanuatu Press Klab visited the Ombudsman's Office the following day to personally deliver the award and speak to all staff. The Ombudsman accepted the award on behalf of the Office (see enclosure B).
July 1997	<b>Legal Counsel visits Matevulu College:</b> Legal Counsel Kalev Crossland delivered copies of public reports to the school's library and held two hours of discussions with senior students.
July 1997	<b>Invitation by the Malvatumuri:</b> The Ombudsman and two of her staff addressed the 22 newly elected chiefs from the Islands of the archipelago.
August 1997	<b>Australasian and Pacific Ombudsman Conference in Darwin:</b> The Ombudsman was able to make and improve contacts with other Ombudsmen in the region and in South East Asia. The Ombudsman delivered two addresses: <u>Vanuatu's Ombudsman and the Separation of Powers</u> and <u>Cultural Sensitivity or Sensitivity to Criticism</u> . (see

enclosure C)

**September 1997**

**Ombudsman speaks at Pacific Islands Police Chiefs Conference in Port Vila:** The Ombudsman addressed the conference on White Collar Crime on the subject of Minimising White Collar Crime. The speech addressed how Police, Ombudsman Offices and other regulatory authorities could work together to fight white collar crime.

**September 1997**

**Supreme Court holds Ombudsman Act constitutional:** See paragraphs 4.18 and 4.19 for discussion of the case.

**5 October 1997**

**Ifira Presbyterian Church:** The Ombudsman was invited on Constitution Day to address the Church congregation, enjoying a warm welcome and much interest in the work of her Office.

**23 October 1997**

**Invitation by the Efate Chiefs for a talk on the Ombudsman role:** The Ombudsman, the Director of Investigation and two senior investigators addressed 30 - 40 Efate chiefs at Eratap village. Hundreds of reports were delivered to the chiefs, who showed much interest.

**November 1996 to October 1997**

**Radio interviews:** Every time one of our reports is issued, we issue Press Statements and the local radio interviews the investigator in charge to explain details the content of the report.

**Public Reports:** Since November 1996, we have issued 14 Public reports on our investigations. Summaries of some appear later in this report.

### ***Current Staffing***

3.2 The staff of the Ombudsman numbered 17 at the end of October 1997 and included the following positions:

- Ombudsman
- Secretary to the Ombudsman and Office Supervisor
- Director of General Complaints
- Principal Legal Investigator
- Legal Counsel to the Ombudsman (Commonwealth Secretariat)
- Director of Language Rights/Multilingualism (CUSO)
- Investigator-in-training of Language Rights/Multilingualism
- Legal Investigator
- Legal Investigator (December-August; continues studies in Canada)
- General Investigator (seconded police officer)
- Health Investigator
- Lands investigator
- Accounting investigator
- 2 Bipartite Investigator and Administrators
- Volunteer Manager - office systems (September - November)

- Volunteer lawyer (September-January)
- Translator (contracted for 3 months)
- Secretaries/Clerks (4)
- Cleaner

- 3.3 The Office hopes to welcome a Director - Corporate Services before the end of this year. This position is funded by the European Union (refer to paragraph 4.10 below).

### ***Performance Pursuant to 1995-1996 Corporate Plan***

- 3.4 As set forth in our 1995 and 1996 reports, the Ombudsman prepared a 5-year corporate plan (1995-1999) in September 1995. The corporate plan provided the office a map of where it needed to go to meet its Constitutional responsibilities. We are happy to report that we have met a number of goals set out in the corporate plan.

### ***Legislation***

- 3.5 Without the Leadership Code Act passed by Parliament, the Ombudsman's Office cannot establish a special division concerned with administering financial declarations of leaders. However, the Government (as part of its general reform program) has promised that it will present the Act in the next parliamentary session. We do not know yet what will be the final content of the bill.

### ***Staffing & training***

- 3.6 A number of Ombudsman investigators have commenced legal studies at the University of South Pacific law school on a part-time basis. Officers of the Ombudsman have also received some in-house formal training in interviewing skills and service of Court and Ombudsman documents.
- 3.7 In May 1997, our Director, Mr Pasa Tosusu, attended a two-week training seminar in London on Ombudsmanship. The Commonwealth Secretariat offered the course, which examined ways to improve the Public Service.

### ***Office procedures***

- 3.8 Numerous changes are presently under way with the advice and assistance of a volunteer working in our office for two months (mid-September to mid-November). We have modified the manner in which we take new complaints in order to reduce the hours staff spends in interviewing every new complainant. We now ask each new complainant who visits the office to complete a written Complaint Form (provided in French, English and Bislama) if possible, after reviewing a brochure describing our jurisdiction (again, in three languages).
- 3.9 We have examined ways to simplify our procedures for case registration and file closure. We have also concluded an office-wide inventory and audit of all case files in order to better monitor progress and equitably distribute investigatory responsibilities among our staff.
- 3.10 The volunteer has assisted the investigators in organising their case loads and administrative responsibilities, while attempting to ease their work by developing a standardised letter bank. We plan to train one of our clerical staff to serve as a legal secretary/assistant to our legal investigators. As no formal training is available locally, we have developed an in-house training program to commence later this month. We are preparing to reorganise our filing and mail-handling systems in order to centralise filing responsibilities and improve office efficiency.



### Office facilities

- 3.11 This year we moved to permanent office premises in Pilioko House on the first and second floors in March 1997. The move was made possible because the solicitor who previously occupied the premises left them with little modification to do and a reasonable premium to pay.
- 3.12 Our office premises are situated down town and are therefore very accessible to the general public. (The location is 5 mins walking distance from the Port Vila market place.) Our complaints have increased regularly since our move.
- 3.13 The Office has decided to apply for land from the Government to build an office for the Office of the Ombudsman. We intend to apply for assistance for the construction of the new office premises. We hope to report positively on our application in our next annual report.

### ***Conditions of the Ombudsman Position***

- 3.14 The Ombudsman has on many occasions expressed concern over the general conditions of employment of the Ombudsman's position.
- 3.15 At the moment, the Ombudsman earns a yearly salary of VT 1,611,048, which is inferior to the salary of any first political secretaries (in Ministries) (VT 1,684,584) and less than the Attorney General's salary (VT 2,400,000).
- 3.16 The Ombudsman notes with regret that the Council of Ministers has not followed the recommendation made by the Public Service Commission of 21.02.97 (recommending an increase in the salary of the Ombudsman).

### ***MOU with Papua New Guinea***

- 3.17 As mentioned in our previous reports, from its creation until November 1996, the Office has received assistance from the Ombudsman's Commission in Papua New Guinea and the PNG Government.
- 3.18 Although the Memorandum of Understanding expired in December 1996, Former Minister of Foreign Affairs Minister Willie Jimmy renewed it for another 2 years when he visited Papua New Guinea in March 1997. This MOU provides further assistance to review the Leadership Code and a member of the PNG Ombudsman staff to help to establish the Leadership Code procedures.
- 3.19 However, the MOU may require review to take into consideration provisions of the Leadership Code Act to be presented in Parliament this year.

## **4 ACHIEVEMENTS AND POSITIVE DEVELOPMENTS**

### ***Greater Awareness and support of the people of Vanuatu***

- 4.1 Everyone at the Ombudsman's Office has been very pleased to see the greatly increased grassroots awareness of the Ombudsman's Office. This has resulted in the number of complaints received increasing by 7 times in September 1996 compared to September 1997 (ie, a 700% increase). The Ombudsman's Office believes that this greater awareness has come as a result of its efforts to publicise its work through the media and by talking to the public. The Ombudsman's Office has

benefited from the wide coverage provided by the media, particularly The Trading Post newspaper, Radio Vanuatu, Radio New Zealand and Radio Australia, BBC International, RFO, regional newspapers, Pacific Islands Monthly and Islands Business, and Tahiti Pacifique.

- 4.2 Distribution of reports has been extensive. We have distributed free-of-charge approximately 15,500 reports throughout Vanuatu (total population approx 170,000). We prepared the reports in our Office. The Ombudsman's Office now has a big list of grassroots leaders who receive our reports in the islands. **If your village or area does not receive reports, please write or telephone the Ombudsman's Office; we will put you on our mailing list.**

- 4.3 The Ombudsman's Office has helped many grassroots people and nearly every week receives letters or telephone calls of support. Many letters of support have been published in the Trading Post and Vanuatu Weekly. Set out below is a small selection of comments taken from some letters to the Ombudsman's Office received in June - August 1997.

- This is to express my personal gratitude and appreciation to you in regards to the comprehensive report on 23 MPs Ex-gratia payments. I have relatively admired your efforts and courage and noted that you had spent a lot of time to compile such a report.*

(name supplied and signed "Concerned Citizen", 24.06.97)

- . . . As a young motivated citizen of this country, I fully support your public reports and 100% support what your office is doing.*

*In my view the reports you made does not [go] against any leaders, however, it helps all citizens to actually know where we are going rather than be a blind person not knowing where we are going. I am really sure that there is a lot of rubbish in the Government and do please clear them and make it public to help the voters for our next general election to make [a] good decision.*

*The main reason for this letter is to give support in your job. You may already have some support through phone, letter or any other sources but as for me, I want to encourage you to continue with your job which really assist a lot of people [being] aware of [these] cruel leaders.*

*The leaders should no longer be trusted and be voted back for the next election. I will stand and make it clear to all supporters/voters of this parties for the next election.*

(name supplied, 11.07.97)

- Just a short note to tell you to "keep up the good work" that you and your staff are doing for Vanuatu. I know that I am not the first to say this and I will not be the last . . . "I believe that God Almighty has raised you up to do what you are doing and I would tell you to fear no man for God is with You. . . Be encouraged for every second of your life there is someone upholding you before the Throne of God in prayer!!! I am proud to be one of them."*

*"May the God and Father and our Lord Jesus, give you and your staff the wisdom and strength to fulfil that which you have been called to do by His spirit; you are indeed [the] mighty army.*

(name supplied; signed "An ordinary Ni-Vanuatu", 15.07.97)

- Mifala plante we i bin tekem part long 16<sup>th</sup> May 1988 Riot i wantem talem aot long pablik se " Mifala i sappotem work blong Ombudswoman Mrs Marie Noelle Patterson. From follem professional*

*work blong investigation wetem save mo qualification we emi kat long LAW i come aot klia long Vanuatu tedei se plante lida oli mekem plante samting i rong long kantri especialli long fasen we oli kasem bikfala mane blong compensation. Toktok ia i kamaot long mifala blong Efate.*

(signed press release, 07.08.97)

• **RE: OMBUDSMAN REPORTS AND RECOMMENDATIONS**

*I would like to write this following information regarding the above subject. Just to let you know that I had tried all my efforts to make fund raisings to publish the main [much] interested and needed information or had some photo copies done and distributed to all church leader, Chiefs, Community leaders, members of Provincial [Council] and Youth leaders in Malekula like South East, South West, North West, North East [who] had also contacted [conducted] a work shop on your reports, an awareness program on your report and leaders coming all around Malekula.*

*They paid their own transport to the workshops also I requested some funding from MPs and they agreed. I must say thanks to 3 MPs who then responded to the needs of these community leaders to come to the workshop.*

*I also travelled around distributing the reports, held meetings.*

*After the successful meetings the community leaders, church leaders, chiefs, youth leaders welcome the reports, and they even write their own support of the reports or a good work done by your office to let all "grass roots" know the real situation concerning their voted member of Parliament or some leaders of the country.*

*In X Island [name of island given] they still need more copies on MP Paul T and MV SAVIN FANA also all round the island they requested more copies of multiple breaches of the leadership code and other unlawful contact [conduct] by HON BARAK T SOPE and Willie Jimmy.*

*I still raised some fund for more photo copies of your reports to be sent to the "grassroots".*

*I had [have] enclosed a list of all the leaders and their communities which they supported your reports and successfully supported the good work done by your office.*

*I will continue to work closely with your office to let all "grass roots" know the real situation concerning the leaders of the country.*

*"The Bible says what you did in the darkness will come to light."*

*I must confirm to your office that the whole [of] Malekula is aware of the good work your office did and fully supports the leadership code which will be tabled in Parliament very soon.*

*God Bless.*

(name supplied, with list of 36 grassroots leaders attached in support and 11 additional letters of support from Malekula, 28.08.97)

- 4.4 We receive support in other ways as well. People and church leaders have come to the Ombudsman's Office and prayed with the Ombudsman staff on a number of occasions. On 2 September, before the Ombudsman's court case challenging the Council of Minister's decision to have the President dismiss the Ombudsman, a

community leader from Ambae telephoned and told an Ombudsman investigator that he was fasting and praying with the people in his village to seek God's help for the Ombudsman.

- 4.5 Everyone in the Ombudsman's Office appreciates the support given to it. The Office also congratulates the leadership shown in Malekula to raise public awareness (both to those who ran the workshop and the three MPs who arranged funding) and all other islands in Vanuatu where people have done the same. Well done. These things give strong heart to all of us at the Ombudsman's Office and we thank you all.

### ***Improved Action by the Public Service Commission***

- 4.6 It is with pleasure that we can report to the public and leaders that the Ombudsman's Office has experienced some very helpful assistance from the members of the Public Service Commission. There now appears to be the start of a good working relationship with this Office. The Public Service Commission has come to understand that they must work independently of everyone, including the Prime Minister's Office.
- 4.7 The Public Service Commission made a difficult decision to confirm that the former Auditor General's appointment was unlawful because he was a convicted criminal and had not followed the rules for applying for the post. The Ombudsman's Office congratulates the courage of the Public Service Commission members in making this determination.
- 4.8 Since this time, the Ombudsman's Office has worked with the Public Service Commission (at PSC's request) to rectify other appointments that did not follow the law. The Ombudsman's Office looks forward to co-operating with Public Service Commission's requests in the future.

### ***Financial Successes***

#### **UNDP (United Nations Development Program) Good Governance Project**

- 4.9 After the Ombudsman attended the UNDP conference in Fiji, UNDP approached her Office to suggest a major awareness campaign and to offer other assistance for good governance. The project agreement has been prepared for the Government to sign, which is the only step remaining before the project can begin. One of the exciting projects is to bring selected chiefs from all over Vanuatu to Port Vila to encourage village awareness and grassroots involvement. However, we understand that the project still requires to be signed by the Government.

#### **European Union Funding**

- 4.10 We have now secured the funding for all of our projects (an on-staff corporate manager, a boat trip around the islands and a publicity campaign) mentioned in the Ombudsman's 1996 report.

#### **Australian Aid to translate public reports into Bislama**

- 4.11 The Australian Government recently granted financial help to translate all of our outstanding reports into Bislama. This is greatly appreciated and will benefit the public of Vanuatu.



### **Australian and New Zealand Aid to fund Parliamentary workshop**

- 4.12 Both New Zealand and Australia funded speakers (Hon Margaret Shields and Mr Cleaver Elliott) to run a series of workshops and presentations to the nation's parliamentarians. As noted in "Achievements for the Year", this was a big success with all but one MP participating. Obviously, without these countries' financial support, the seminar would not have taken place.

### **Australian Aid to finance the Ombudsman's trip to the Regional Conference of Ombudsmen held in Darwin, Australia**

- 4.13 The Office is grateful for the assistance, as the attendance at the Ombudsman Conference was very helpful for the newly-appointed Vanuatu Ombudsman. Without this assistance, the Ombudsman could not have attended, due to shortage of funds from the Vanuatu Government.

### **1998 Asia and Pacific Ombudsman Conference (APOC) in Vanuatu for the first time**

- 4.14 Following APOC this August in Darwin, Australia, all the Ombudsmen present agreed that next year's conference should be held in Port Vila. To host the annual conference of Ombudsmen from the Pacific Islands, Australia, New Zealand and the South East Asia is a great honour for the country. It will no doubt throw the spotlight onto the country, as did this year's PINA conference did.

### **Success in the Courts**

#### **Prosecutions under the Ombudsman Act**

- 4.15 The following individuals were successfully prosecuted for breaches of the Ombudsman Act for failure to attend summons:

- Willie Roy (14.07.97)
- William Tari (22.09.97)
- Yoan Kalsakau (29.09.97)
- Petre Malsungai (20.10.97)
- Theodore Salong (20.10.97)

- 4.16 Four persons insulted the Ombudsman during the year, which is also breach of the Ombudsman Act punishable by a fine and/or imprisonment. The Ombudsman's Office's practice is always to offer the offender the opportunity to apologise before proceeding with Court action. Thankfully, all four who insulted the Ombudsman accepted offers to apologise, thus avoiding Court action.

Those who insulted the Ombudsman and apologised in writing during the last 13 months were:

- The Prime Minister, Rt Hon Serge Vohor
- The Prime Minister's First Secretary, Mr William Tari
- Former Finance Minister, Hon Willie Jimmy
- Mr Jimmy Alick Kokona, Managing Director of Government-owned Vanuatu Holdings Ltd

### **Sope v Ombudsman - October 1996**



- 4.17 Prior to the public release report on Breaches of the Leadership Code and Other Unlawful Conduct by Hon Barak T Sope, Hon Barak Sope, current Deputy Prime Minister, applied to the Supreme Court to stop publication of the Ombudsman's Report. The Supreme Court (Acting Chief Justice Lunabek) refused Mr Sope's application and struck out his case in total.

*Air Vanuatu Directors v Ombudsman -- heard March 1997, decision September 1997*

- 4.18 The directors of Air Vanuatu (a company owned 100% by the Government on behalf of the People) applied to the Supreme Court to stop the Ombudsman's Office from investigating allegations of leadership breaches. The directors argued that the Ombudsman's Act was unconstitutional. The Court rejected that argument and refused their application. The Court (Acting Chief Justice Lunabek) held that the Act was constitutional (with one narrow exception that did not apply in this case). The judge then dismissed the Air Vanuatu directors' case.
- 4.19 This was a very important decision for Vanuatu as it set an important precedent for future cases. It has resulted in other cases being dropped or reduced in their scope. The decision itself was a fine piece of judicial logic and reasoning, and will be published in the Commonwealth Law Reports. (These reports are referred to by lawyers and judges throughout all Commonwealth countries). As a result of the decision, the Ombudsman has resumed the investigation into the Air Vanuatu matter and a public report may come out in the future.

*Ombudsman v Leymang -- November 1996 to October 1997*

- 4.20 Father Gérard Leymang, the former Chief Minister (before Independence) and current first secretary to the Finance Minister Hon Vincent Boulekone, issued a constitutional writ against the Ombudsman alleging various constitutional breaches by the Ombudsman in the course of an enquiry. The Ombudsman issued an application asking that Fr Leymang be summoned before the Supreme Court to answer questions that he had refused to answer before the Ombudsman. Over a period of ten months, Fr Leymang obtained various adjournments to get a lawyer and to file an amended case which did not, in its original form, constitute a valid case.
- 4.21 The Court eventually granted the Ombudsman's application to ask Fr Leymang questions after he did not get his own case ready. The examination proceeded on 21 July 1997. Fr Leymang refused to answer questions put to him under oath by Mrs Lini-Leo, the Ombudsman's Legal Counsel. The Supreme Court found Fr Leymang in contempt of court and sentenced him to six months' imprisonment, imposed a fine and ordered him to pay costs.
- 4.22 The Supreme Court gave Fr Leymang an additional 21 days to appeal or answer the Ombudsman's questions. Fr Leymang chose to appeal to the Court of Appeal. On 13 October 1997, the Court of Appeal took only 10 minutes to reject all 7 grounds of appeal and uphold the original decision of the Supreme Court. The President of the Court of Appeal, Justice Robertson, then gave Fr Leymang one more chance to answer the Ombudsman's questions. The next day Fr Leymang backed down and answered all questions put to him by Mrs Lini-Leo. As a result of Fr Leymang's change of heart, the Court of Appeal dropped his prison sentence but ordered him to pay costs to the Ombudsman's Office of VT 200,000 over a period of time. This case also represents an important precedent for Vanuatu.

*Swanson conviction -- heard January 1997, decision 17 October 1997*

- 4.23 Australian national Peter Swanson was convicted on 7 counts in connection with the USD \$100 million Bank Guarantees scam that this Office described in three reports last year. The conviction vindicates the Ombudsman's position on the Bank Guarantees scam over a year ago in its three reports (04.07.96, 22.10.96 &

28.11.96). Unless the verdict is overturned on appeal, it brings back into the spotlight the conduct of the chief architect of the scam for the Government, Hon Barak Sope. The Ombudsman's Office has recommended that the Public Prosecutor and Attorney General consider prosecution of Mr Sope (see Multiple Breaches Report (10.12.96, page 30). Following any appeal, the Ombudsman's Office will monitor this matter.

- 4.24 The Ombudsman's Office was very surprised that a number of MPs (one a Minister) had signed a "petition" calling for the trial judge's dismissal whilst awaiting the decision, alleging delay. The case was probably the most complex fraud case in Vanuatu's legal history and arose at a time when Port Vila had only one judge. In other countries, with more judges, the length of time taken by the judge with such a lengthy trial is not unusual. The signing of this "petition" indicates that none of these MPs and the Minister seem to understand the doctrine of separation of powers. MPs cannot interfere with a judge's consideration of a case. The MPs signing the petition could well have acted in contempt of court. That is, however, a matter for the Court and not the Ombudsman.

**Ombudsman v Council of Ministers -- September 1997, decision awaited**

- 4.25 In July 1997, Decision 125 point 3 of the Council of Ministers called for the circulation of a petition to request the President to dismiss the Ombudsman. The Ombudsman's Office applied for an order declaring the decision illegal and asking for an order to stop the Council of Ministers from taking any further steps. Justice Oliver Saksak heard the case in September 1997. On 30 October 1997 Justice Saksak ruled that the Council of Minister's decision was unlawful and contrary to the rule of law. The decision is a constitutional landmark as it was the first time an executive decision had been challenged in the Supreme Court and struck down. Whilst the decision itself was unlawful the fact that Vanuatu's judiciary ruled the way it did shows that the rule of law is alive and well in Vanuatu.

**Ombudsman v Jimmy & Others: Ex Gratia and 1994 "Compensation" payments challenge**

- 4.26 In June 1997, the Ombudsman filed claims under Section 30 of the Ombudsman Act, seeking an order from the Supreme Court to give effect to her recommendations that those current and former MPs and Ministers return the ex gratia payments of VT 1,500,000 each paid to them from the Republic. In July 1997, the Ombudsman filed a second case against Messrs Hon Willie Jimmy, Maxime Carlot Koman and Barak Sope seeking a similar order that the men return payments of VT 5,000,000 made to each of them. These cases are still pending.

**The State v Sope**

- 4.27 Mr Sope's prosecution for failing to attend a summons issued by the Ombudsman in connection with an investigation is pending before the Magistrate's Court. A date of hearing is yet to be assigned.

**Our Radio Campaign Highlighting Wife Beating and the Initial Results**

- 4.28 Over the past few months, the Ombudsman's Office has run a radio campaign highlighting the problem of wife beating. The advertisements advise the public that wife beating is a crime for which a man can go to jail and that if the Police do not look into a complaint, people should report this to the Ombudsman's Office.

- 4.29 We have already received evidence that, by highlighting this problem for Vanuatu, there has been a reduction in wife beating. The Ombudsman was recently advised by the father of a senior politician who works at an aid-post that, since the advertising campaign, he has noticed a big reduction in the amount of women coming in for treatment after being beaten by their husbands.
- 4.30 A Swedish lawyer and lecturer sailing his boat round the world told an Ombudsman staff member an interesting story. He said that he talked with some villagers about the Ombudsman's Office when he anchored his boat at a small island. They told him that a man could not now beat his wife because the Ombudsman's Office had said on the radio that it was tabu. The villagers said that it was tabu in the same way that it was tabu to take turtles at certain times of the year.
- 4.31 The Ombudsman's Office is encouraged by these initial results but asks that all continue to look out for cases of wife beating and child abuse.

## 5 AREAS OF CONCERN

- 5.1 During the 18th Union of Moderate Party's Congress in Tanna, Prime Minister Serge Vohor urged political leaders in the country to change their corrupt behaviours while holding public offices. *"There is a great need for leaders to change their corrupt attitudes, especially while in public office, because many donor countries are beginning to condition their financial assistance to developing countries like Vanuatu,"* said Prime Minister Vohor. *"Abuse of power must be reduced because these do not only threaten the level of assistance Vanuatu can get, but it has caused inefficiency in the statutory bodies..... The public service falls victim to maladministration because many positions are being held by people who lacked proper qualifications,"* Prime Minister Vohor said.

### **Comprehensive Reform Program**

- 5.2 **Without the Leadership Code, there is no hope of improvement and the CRP will be a waste of time and money.** The Leadership Code Act should be the foundation of the CRP. Although the Leadership Code Act is one of the projects included in the CRP, doubts remain as to when the Act will go to Parliament and as to whether it will create a weak or a strong Leadership Code. However, the answer should come soon, as a new draft is awaiting presentation in Parliament in November 1997.
- 5.3 In the last year, projects of the Leadership Code bills have been presented to Parliament on three occasions; all were withdrawn at the last minute because leaders needed to have an additional look at it.
- 5.4 There is presently no punishment for leaders who break the Leadership Code contained in the Constitution. The Leadership Code Act will put the flesh on the bones of the Leadership Code. As with a living body, to have a fully functioning system of accountability, you must have both the bones and the flesh. At the moment Vanuatu has only the bones. The grassroots, particularly in the islands, apparently ask the question, *"When are the guilty leaders going to jail?"* whilst the leaders' alleged guilt would be a matter for the proposed Leadership Tribunal, the grassroots' complaint is one that must be answered.
- 5.5 The CRP contains many worthwhile goals and objectives which, if carried out, may well result in benefits trickling down to the grassroots: an improved economy and increased observance of the law by leaders, particularly those in the Executive. However, the reform process must start from the top. Political leaders and those donors funding the CRP can hardly expect, on any realistic basis, the population to embrace the CRP if there is no system in place to regulate the conduct of those at the top and to make them accountable. This is the basic notion of **leading by example**.
- 5.6 Therefore, the first area of reform must be the leaders themselves. Some would argue that one of the reasons for Vanuatu's current financial position is a lack of



competence at the highest levels of Government and an attitude that the law does not apply to the Executive (Council Of Ministers).

- 5.7 This second characteristic is sometimes seen with the Executive's attitude towards the Attorney General. Some Ministers hold the belief that the Attorney General is a mere adviser and that if advice from the Attorney General does not fit in with the wishes and desires of the Executive, then it can be ignored. That attitude is not correct. Art 39(1) of Vanuatu's Constitution states:

The executive power of the people of the Republic of Vanuatu is vested in the Prime Minister and Council of Ministers and **shall be exercised as provided by the Constitution or a law.**

(emphasis added)

This means that if no law or Constitutional provision allows for a proposed course of action by the Council Of Ministers, they cannot legally carry out the desired plan.

- 5.8 In conclusion, the Ombudsman's Office believes that it is imperative that Parliament pass the Leadership Code Act before anything further is undertaken in pursuit of the CRP. We understand that the Leadership Code Bill might be on the list of new bills to be presented in the next parliamentary session. This is what the people want. If there is any doubt, then the Minister and the people responsible for CRP, and the Minister responsible for CRP, should consult community leaders, chiefs and church leaders on the topic.

### ***Proposed Increases of MP's Allocations known as "Slush Funds"***

- 5.9 It was a surprise to learn of the proposed increase in MPs slush funds from VT 1 million to VT 2 million. The use of these slush funds has been a contentious issue for some time. There are no guidelines as to their use and as a result, they sometimes spend this allowance in an irresponsible fashion, as confirmed through the numerous complaints that we receive.
- 5.10 It is ironic that all year we have heard from the CRP co-ordinator how the Public Service must be "rightsized" and that the 1998 budget will provide for it. One must question the wisdom of this proposed increase when leaders can take more money at the expense of others.
- 5.11 One must ask whether the People of Vanuatu are getting value for their money from their elected representatives at present. It is possible that the Executive may well have miscalculated and misunderstood the mood of the People. They must remain in touch with the grassroots. It is hoped that some MPs, such as Hon John Tari Molbarav (who showed leadership earlier this year by refusing to accept a position on the Board of Air Vanuatu), will examine the proposal to increase slush funds closely.

### ***Increase in criminal activity in Port Vila***

- 5.12 It is a grave worry that crime is increasing in Port Vila. While this may be the inevitable result of urbanisation, some of this increase results from a general deterioration of the Police Force work during the appointment of a former convict as Police Commissioner, Mr Luc Siba, and the general example of the leaders, as described in Prime Minister Vohor's comments set out at the beginning of this section. Failure to observe the laws of Vanuatu by some leaders may also be a factor in the minds of some citizens.
- 5.13 The Ombudsman's Office will watch with interest to see whether this unwanted trend can be stopped by the new Police Commissioner, Mr Peter Bong, and his officers.

## **Statutory Bodies**

- 5.14 As reported last year, statutory bodies are plagued by political interference. This is most obvious in the appointments of persons to these boards based not on merit but on politics. Because of the many changes in Government over the last 18 months, this has led to one group of political supporters moving in to replace another group, and so on and so on.
- 5.15 The constant changes in membership have a most disruptive effect on the operation of the companies and boards concerned. On a brighter note, it was encouraging to see individuals challenge terminations in Court. Hopefully, Court decisions may cause the Council of Ministers to understand that positions on boards of Government-owned companies and Statutory Bodies are not rewards to be handed out to friends for past political support. We note that this message was also given to all MPs at their seminar in June 1997. It will be of interest to all to see whether 1998 brings a change in attitude by the Executive.

## **Reappointment by Rt Hon Serge Vohor of Hon Barak Sope as a Minister**

- 5.16 The present Prime Minister, Hon Serge Vohor, last October made the following statement in relation to removal of Mr Sope from the Council of Ministers:

*It is true that I broke our MOU (with the MTF Group) but as Prime Minister, I believe it is important to correct the situation now especially with the flak that keeps hitting the country as a consequence of the Scam and Cybank issues and a number of other issues, I cannot accept any more misconduct.*

(The Vanuatu Trading Post, 26 October 1996, No 190)

Prime Minister Vohor also added:

*I don't want to work with leaders that threaten the security of this nation. Instead I want leaders that will work together for the interest of this nation and its people.*

(Vanuatu Weekly 26 October 1996, No 618)

- 5.17 Mr Vohor showed leadership in removing Mr Sope from the Council of Ministers so that no further damage would be done to the country. It was a surprise therefore that, on 21 May 1997, Mr Vohor, perhaps fearing the new strength of the recently enlarged VP, mended his bridges with Hon Maxime Carlot Korman and renewed his association with Hon Barak Sope. This was an about-face because, as noted above in November 1996, Mr Vohor's reasons for dismissing Mr Sope and the MPP from the previous coalition were the damaging revelations contained within the Ombudsman's Bank Guarantees, Cybank, and Multiple Breaches Reports.

## **Status of Women**

- 5.18 Although our Constitution requires equal treatment of men and women under the law, women have a much lower social status than men in this country. This low status is reflected in the bride-price system and the low enrolment rates for girls in primary and secondary schools (47% and 46%, respectively). The incidence of wife-beating also reflects a disregard for the welfare of women.
- 5.19 While it may be impossible to eradicate the traditional bride-price system, we must strive to over-haul our citizens' perception of women in this country. Parents must encourage their daughters, as well as their sons, to pursue education and training whenever possible. They should also teach their sons and their daughters about their legal rights: the rights of equal treatment and equal protection under the law. Our schools should include these basic concepts in their curriculum. Our chiefs and



church leaders must instruct (by example as well as by word) grassroots people and parishioners that women deserve equal treatment under our moral code.

- 5.20 We look to our Government leaders to enact and enforce laws that recognise women's equal status to that of men. The government should also provide financial support to non-government organisations, such as the Vanuatu Women's Center, which strive to improve the lives of women in our country.

### ***Attitude of Public Servants***

- 5.21 Our Office frequently encounters problems in obtaining information from government employees due to absenteeism from their offices. It seems as though "payday" is a regular public holiday for some government employees; days on which sporting events take place also mark a high rate of absenteeism. Government offices must adhere to the hours prescribed by law, and public servants must be available to meet the needs of the public at these hours, every working day. We urge all government employees and their supervisors to give the public what it is paying for by observing the required office hours.

## **6 SUMMARY OF SOME OF OUR PUBLIC REPORTS**

### ***Bank Guarantees Reports II & III (22.10.96 & 28.11.96)***

- 6.1 These two reports describe Hon Barak Sope's final desperate efforts to get possession of the 10 bank guarantee documents. Mr Sope did this without any authorisation from the Council of Ministers.
- 6.2 The recommendation that he be removed from high office was carried out by the Prime Minister but later reversed, as noted above at 5.14-5.15.

### ***Multiple Breaches of The Leadership Code and Other Unlawful Conduct by Hon Barak T Sope***

- 6.3 This report catalogues 11 separate instances of unlawful conduct by Hon Barak Sope. These include instances of political interference with the Vanuatu Commodities Marketing Board and National Bank of Vanuatu, granting of duty exemptions of over VT 17,000,000, attempting to buy a 747 aeroplane, making illegal appointments, issuing of dishonoured cheques, failing to pay a man Tanna for a supply of potatoes and the Cybank and Bank Guarantees matters.
- 6.4 As the nation will know, Mr Sope was reappointed to the post of Deputy Prime Minister. However, on 22.10.97, the position of Deputy Prime Minister was eliminated and Mr Barak Sope is now just a Minister. It would appear that this appointment was made in return for his party's votes to keep Mr Vohor and the UMP in government. In the face of Mr Vohor's failure to follow the Ombudsman's recommendation, it will now be a matter for the People of Vanuatu to decide whether they return Mr Sope as an MP in the next general election.
- 6.5 The Ombudsman's recommendation that the Attorney General and the Public Prosecutor consider prosecuting Mr Sope under the Penal Code Act and the Prevention of Fraud (Investment) Act has **not acted been upon**.
- 6.6 The Ombudsman's recommendation that the letters of agency issued by Mr Sope be cancelled has **not been acted upon** by the Attorney General.
- 6.7 **No advice has been given** to the Ombudsman's Office as to whether its recommendation that all unused duty exemptions given by Mr Sope be cancelled has been followed. However, we understand that the VCMB (Vanuatu Commodities Marketing Board) is continuing his legal action against the Company Carmille Trading

Ltd to recover USD \$250,000 for the copra lent under the instructions of Minister Barak Sope, even though the Chairman of the Board appointed by Barak Sope instructed the Manager to stop the legal action.

***Appointment of Maurice Michel to the Public Service and to the Position of Auditor General (6 March 1997)***

- 6.8 This report deals with political corruption. It condemns former Prime Minister Hon Maxime Carlot Korman for appointing a political ally/supporter to a position of Auditor General. Mr Michel was a convicted criminal and not qualified for the position. Mr Michel also sought to avoid the only way to apply for the position by going directly to the Chairman of the Public Service Commission. Mr Michel was a senior officer in the Public Service Department and must therefore have known the rules for applying for positions and the fact that convicted criminals could not be recruited.
- 6.9 The Ombudsman found that Mr Michel's appointment was invalid and of no legal effect from the beginning. As such, the Ombudsman recommended that Mr Michel be advised that his appointment was invalid and that he no longer act in the position of Auditor General. The Ombudsman's **recommendation was followed**. Mr Michel's initial court challenges to get recognition as Auditor General have failed to date. Mr Michel may still pursue Court action against the Government on this matter.

***Premature Birth and Death of Newborn Twins at Vila Central Hospital (28 May 1997)***

- 6.10 This report brought into sharp focus the consequences of not filling the vacant post of Gynaecologist/ Obstetrician since 1993 despite an open offer from the British to fund such a post. In the period 1992-1996, the number of deaths from a similar number of births for the period 1988-1991 more than doubled.
- 6.11 The report also highlights the fact that **the Council of Ministers allocated themselves VT 25 million over 1994-1996 for private medical treatment** for themselves and their families in Australia and New Zealand. The Ombudsman lays responsibility for the substandard situation with the former Director of Health, Yves Niowenmal, another political appointee of former Prime Minister Hon Maxime Carlot Korman.
- 6.12 As there was no qualified gynaecologist in the country, the Ombudsman advised the Department of Health to apply for assistance from aid donors through the appropriate channel: the National Planning Office. To date, the Director of that Department, Mr Johnson Wabaiat, has not made any application and we still have no gynaecologist for all the women of the country. There is therefore not much hope to see any improvement in a decrease of the rate of deaths of babies at birth or premature.

***Illegal Ex Gratia Payments to 23 Former MPs (4 June 1997):***

- 6.13 This report concludes that payments of VT 1.5 million as "compensation" for perceived political injustice "suffered" by 23 former and current MPs (including current Prime Minister Hon Serge Vohor, former Finance Minister Hon Willie Jimmy, current Minister of Trade, Hon Barak Sope and former Prime Minister, Hon Maxime Carlot Korman) had no basis in law.
- 6.14 The Ombudsman recommended that the MPs concerned return the money. The **recommendation to return the money has not been followed**. Failure of these men to return the money has required the Ombudsman to issue legal proceedings under Section 30 of the Ombudsman Act seeking an order from the Supreme Court to give effect to this recommendation. The defendants have applied to set the writ aside on the basis that the Ombudsman's Act is unconstitutional and on other

grounds. S 30 of the Act is a very unique provision, so this will be a test case to determine the meaning, scope and effect of the section.

***Abuse of Vanuatu National Provident Fund ("VNPF") Tendering Procedures by VNPF Board and Management (19 June 1997):***

- 6.15 This report highlights a decision to award a tender (for furniture) to a company whose offer was objectively not the most competitive. The Board members were attracted to the tender because of a free trip to Australia offered to some of them to inspect the furniture. Whilst in Australia, these members purchased furniture for private use using money they lent themselves from the VNPF Fund. The Ombudsman recommended, inter alia, the hiring of a new independent Board (**not followed**).

***Conduct of Hon Willie Jimmy, Hon Amos Bangabiti and Mr Aime Malere in the Sale of MV Savin Fana (26 June 1997):***

- 6.16 This report highlighted political nepotism and favours within the ruling UMP party. A ship donated to the country by Australia was sold a few years later behind closed doors by Ministers Jimmy and Bangabiti to UMP party strongman, Mr Malere. (Mr Malere was the government's former representative on a statutory board and the former Consul in Noumea.) The Ministers determined the purchase price by asking Mr Malere how much he **preferred** to pay. Mr Malere's preferred price was VT 500,000, less than 20% of the amount offered by tender by another unpolitically connected person.
- 6.17 The **recommendation** that the Attorney General look into the matter with a view to issuing proceedings to recover the amount lost has **not been followed** to date. The Office will follow this up.

***Payment of "Compensation" to Hon Maxime Carlot Korman, Hon Barak Sope and Hon Willie Jimmy Report (3 July 1997):***

- 6.18 This report exposes unlawful payments of VT 5,000,000 to each of the three above. The men did not even qualify under the Compensation Act 1994, which they had pushed through the Executive and then Parliament specifically for the purpose of paying themselves. The "compensation" related to their imprisonment in 1989, following conviction for offences arising out of their attempts to form an interim government. Their convictions were later overturned by the Appeal Court and the men were released.
- 6.19 To qualify under the Compensation Act, a person had to be imprisoned **without a Court order**. Messrs Jimmy, Korman and Sope were all imprisoned **with a Court Order** and thus did not qualify for compensation. Accordingly, the VT 5 million was paid to Messrs Korman, Sope and Jimmy without lawful basis.
- 6.20 The Ombudsman's recommendation that the men return the money to the Republic was **not followed by them**. Accordingly, the Ombudsman filed a second legal action under S 30 of the Ombudsman Act, seeking an order giving effect to the recommendation that they return the money to the Republic. This case is being heard together with the Ex Gratia Court action. The Court has not yet issued a date of hearing.

***Improper Interference with a Land Lease by the former Minister of Foreign Affairs, Mr Amos Bangabiti (17 July 1997):***

- 6.21 This report concerns the above Minister threatening an expatriate resident with non renewal of his residency permit following eviction of squatters from his leased land.

The eviction was carried out by a court bailiff following a court eviction order. The evicted families, UMP supporters, complained to their local UMP party executive, who then wrote to all UMP Ministers asking them to immediately cancel the man's residency permit. As a result, the Minister threatened the expatriate with non renewal of the requisite permit.

- 6.22 Once the Ombudsman got involved, **to his credit, the Minister Bangabiti followed the Ombudsman's recommendation** by publicly accepting that what he had done was wrong and apologising for his conduct.

***Delayed Action by Police to Curb Unrest at Paunangisu Village (12 August 1997):***

- 6.23 In this report, the Ombudsman strongly criticises the former Police Commissioner, Mr Luc Siba, and other senior officers for failing to carry out their duties competently and without delay. Order was lost at Paunangisu in the north of Efate for three months, following a dispute over who was the rightful claimant to chief of the village upon the death of the previous chief.
- 6.24 The loss of order culminated on 18 September 1996 when houses were burnt down, property was stolen and fighting and widespread looting occurred. The Ombudsman was particularly critical of a media release from the police suggesting that they could not get involved in *kastom* disputes. The media release preceded the events of 18 September. The Ombudsman has recommended disciplinary action against those officers remaining in the force. We understand that some disciplinary action has started.

***National Bank of Vanuatu Board members' trip to Fiji (10 September 1997):***

- 6.25 This report details the NBV Board members' trip to Fiji. The stated purpose of the trip was to learn from the National Bank of Fiji about banking. However, the National Bank of Fiji had collapsed a few months previously in the face of a financial scandal. Officers of the National bank of Fiji were being tried on criminal offences. These events were well-publicised and widely known.
- 6.26 On arrival in Fiji, the Board unanimously passed a resolution to award themselves a higher daily living allowance. A few days later, on the Board's instruction, staff sent more money by telegraphic transfer. NBV Board members never met anyone from any bank in Fiji. Their only activities were to drink a fair amount of alcohol and have a beach party. NBV is a 100% Government owned (on behalf of the People) bank. Therefore, the Board members' holiday was paid for by the People.
- 6.27 The Ombudsman's **recommendations** that the Board members (Messrs Samson Toara, Alfred Maliu, Irene Bongnaim, Willie Arusiro, Jimmy Eau and Manager Anatole Hymak) pay back the money for trip and that they not be reappointed to any public position are **under consideration** at the moment by Finance Minister Hon Boulekone.

***Hospital Panel Signs (1 October 1997):***

- 6.28 This report brought to light the former Director of Health, Mr Yves Niowenmal's, inability to assess spending priorities and to see the absurdity of a cigarette sponsor for a hospital. (As noted above, Mr Niowenmal was an appointee of former Prime Minister Hon Maxime Carlot Korman). Mr Niowenmal contracted with a local cigarette company for the supply of neon display signs for a total cost of VT 2.2 million for Port Vila and Northern District (Santo) Hospitals. The signs were to say "Sponsored by Benson & Hedges", one of the largest and best known brand of cigarettes in the World.



- 6.29 This contract came at a time when the government has failed to provide enough money for staff and equipment (hence the Council of Ministers' self-allocation of VT 25 million for overseas medical treatment; see 6.11 above) and facilities for patients, including those suffering from tobacco-related diseases. According to the World Health Organisation, 2,700,000 people die worldwide from smoking-related diseases. Thankfully, the signs were never put up and Mr Niowenmal no longer holds the job of Health Director.
- 6.30 The Ombudsman recommended that Mr Niowenmal never be re-appointed Health Director nor appointed to a position that involves the spending of public money. The Ombudsman recommended that the Attorney General take action to recover the balance of monies not refunded. After the publication of the report, the private firm immediately refunded these monies.

### ***Conclusion - failure to consider recommendations:***

- 6.31 Most of the Ombudsman's recommendations are not being followed; they are not even considered. Art 63(4) of Vanuatu's Constitution states:

**The Prime Minister or the person in charge of the relevant public service shall decide upon the findings of the Ombudsman within a reasonable time and the decision, with reasons, shall be given to the complainant forthwith. Any period limiting the time in which legal proceedings may be commenced shall not begin to run until the complainant has received the decision.**

(emphasis added)

S 25(2) of the Ombudsman Act states:

**For the purposes of Article 63 (4) of the Constitution, the Prime Minister or the person in charge of the relevant Public Authority, or Ministerial Department or Governmental body or other service or body referred to under section 14 of this Act, as the case may be, shall, within a reasonable time, as specified by the Ombudsman, decide upon the findings of the Ombudsman and shall notify the Ombudsman in writing of, what steps he proposes to take (and notify the Ombudsman if he does not propose to take any) to give effect to his recommendations**

(emphasis added)

- 6.32 These laws impose upon the Prime Minister or departmental head a constitutional and legal duty to do the following:
- (a) Read and consider the Ombudsman's report and the findings and the recommendations in the report;
  - (b) Decide whether or not to follow the recommendations; and
  - (c) Advise the Ombudsman and the complainant (where applicable) in writing of the decision **with reasons** for his decision and the steps he will take to give effect to the Ombudsman's recommendations.
- 6.33 If the Prime Minister continues the pattern of not addressing his constitutional and statutory duty to decide upon (with written reasons) the Ombudsman's findings and recommendations, the Ombudsman will consider applying to the Supreme Court for *mandamus*. *Mandamus* is a special Court order requiring a person to perform a public duty that they are required by the law to perform.

## **7 REPORT ON POLICE AND PRISONS**

### ***Police***

- 7.1 During the period of this report, complaints made against the Vanuatu Police Force ("Force") increased. These complaints involved allegations of delayed actions/investigations, abuse of power, misconduct/misbehaviour of individual police officers, maladministration and assault on arrested persons.
- 7.2 This increase was due to the availability of the service provided to the general public by the Ombudsman's Office. Prior to the establishment of the Ombudsman's Office, all complaints made against the police were reported only to the police. According to some of them, the complainants came to the Ombudsman's Office because the police allegedly took no action or were very slow in investigating their complaints. The Ombudsman's Office can therefore fill the need for an independent office to examine such complaints where the Force does not take action on them.
- 7.3 Improvements made during the last quarter of the period of this report include:
- (a) A procedure to deal with police complaints was established whereby this Office monitors the treatment of the complaint. If the police fail to deal with these complaints, then the Ombudsman's Office investigates on the basis of non-action by the police.
  - (b) Police assisted the Office in several investigations of complaints against the Force.
  - (c) The Force will employ two solicitors to work with them next year. This assistance will increase the efficiency and effectiveness of the Force. Many of the delayed actions by the Force arose because the police were not properly equipped to deal with the situations, which recognised technical or legal analysis. If this proposal goes ahead, it will be a major achievement.
  - (d) A review of the overall operation of the Force was conducted. The Force is now implementing recommendations resulting from this review to improve its efficiency and effectiveness.

### ***Prisons***

#### **Introduction**

- 7.4 The Prisons (and the Police Department, which is directly responsible for the administration of the prisons) fall within the jurisdiction of the Ombudsman, as specified in Section 14 (1) (a) of the Ombudsman Act. A member of our staff visits Port Vila Central Prison each month. (Funds and work load have not allowed the Ombudsman to visit prison posts in the other parts of the country. This report therefore concerns only our visits to the Port Vila Central Prison.)
- 7.5 The purposes of our visits to the prisons are:
- (a) To make sure that prisoners' fundamental rights are protected as stated in Articles 5 and 6 of the Constitution. We monitor this through complaints received from each prisoner and prison officer allowed to talk to the Ombudsman privately.
  - (b) To ensure that whilst in jail, prisoners undergo a rehabilitation program to help them avoid criminal behaviour upon their release.
- 7.6 With the regular monthly visits by Ombudsman officers to the prison, we have noticed improvement in most of the problems encountered by the prisoners.

### Prison condition and location

- 7.7 The Ex French Prison building located in the Stade Area of Port Vila, chosen for its better security, was set up as Vanuatu's main central prison. However, due to its deteriorating conditions and following several complaints received by prisoners, the prisoners were moved to the smaller Ex British Jail at the Independence Park Area.

### Number and types of complaints

- 7.8 We received 24 complaints during our visits to the prison from September 1996 to August 1997. The complaints ranged from prisoner complaints against the police to complaints against the Public Prosecutor and the Minister responsible of the Prisons.
- 7.9 We eventually closed some of these complaints due to prisoners release from jail on licence by the Minister of Justice on 10 April 1997. Others were closed after being solved with the appropriate authorities. Some remain under investigation by the Ombudsman.
- 7.10 The overall status of complaints are as follows:
- |   |   |
|---|---|
| (a) Complaints closed due to release from prison on license | 7 |
| (b) Complaints closed after being solved                    | 9 |
| (c) Complaints still under investigations                   | 8 |

### Summary

- 7.11 As mentioned above, with continuous visits and support from the Office of the Ombudsman, it appears that life in prison has improved compared to the start of 1996. Prisoners are now feeling secure from mistreatment by prison officers. We have helped them to realise their rights under the Constitution as prisoners, and with continuous advice given to them, there are no more escapes from the prison. The food has improved with limited funds made available to the prison authorities.
- 7.12 We therefore hope that with increased awareness of life in prisons, the appropriate authorities will make prison a place where a prisoner is rehabilitated into a useful citizen of this country.
- 7.13 However, the poor condition of the building remains a significant problem. We welcome the recommendation to build a new jail.

## **8 PROPOSED EDUCATIONAL AND PREVENTIVE PROGRAMMES**

- 8.1 It is most important for the people of Vanuatu to know precisely the role of their Ombudsman and how the Office of the Ombudsman may assist people as mediator between themselves and Government.
- 8.2 As noted above (paragraphs 4.1-4.5), there is now a greater awareness of the Ombudsman's Office, particularly in Port Vila and, to a lesser extent, in Santo and Malekula. The Office wants to continue to raise public awareness in Vanuatu beyond Port Vila. In last year's report we mentioned three strategies to achieve this goal:
- (a) Circulation of the Ombudsman's reports to selected community leaders throughout Vanuatu;
  - (b) A weekly radio programme; and
  - (c) Travelling "roadshows" and "boatshows".

- 8.3 We have built a very good list and network throughout Vanuatu so that we can distribute reports to most islands. **If your area does not receive our reports, or you know an area that is not getting the reports, please contact the Ombudsman's Office so that we can add you or another area to the list.**
- 8.4 We do not have a weekly radio program. We do, however, give interviews after each report comes out. We will continue to work on getting a weekly radio program.
- 8.5 Because United Nations Development Program has agreed to fund a substantial good governance project (subject to government signature) and the European Union has agreed to fund the boat trip, the Ombudsman and some officers will be able to travel to islands after the conclusion of the cyclone season. Enclosure D sets out our proposed itinerary.
- 8.6 The purpose of these trips is three-fold:
- (a) To educate and raise public awareness about many of the topics concerning the Constitution, good government, leaders and maladministration;
  - (b) To reveal any instances of administrative or other conduct warranting investigation by the Ombudsman and officers; and
  - (c) To set up liaisons in the community to receive and distribute our reports and to receive complaints and forward them to our Office.
- 8.7 We have already begun visits to schools and talks to pupils about our job under the Constitution. Next year we will continue to do this and try to speak to all large high schools in Vanuatu.

## **9 STATISTICAL REPORT ON COMPLAINTS**

- 9.1 From 1 September 1996 to 31 August 1997, the Ombudsman registered complaints and/or initiated enquiries on 353 matters.

### ***Total complaints***

- 9.2 The Ombudsman's Office received and registered a total of 353 complaints, compared to 208 in the last annual period. This indicates an increase of approximately 70% in the last year. This rate of increase has accelerated recently, as demonstrated by a comparison of complaints registered in September 1996 to those registered in September 1997. In September 1996, this office registered 15 complaints (2 of which were own initiative); this past September, we registered 105 (again, only 2 of which were own initiative). **These figures show a 700% increase for the coming year and this trend appears to be continuing into October 1997.**
- 9.3 12% of cases were resolved and closed this year, compared to 5% last year. This low resolution or clearance rate reflects, in part, the unwillingness of Government officers to responsibly address matters brought to their attention by the Ombudsman, thereby delaying disposition of the case or requiring a full investigation. It also reflects, to some degree, this Office's growing workload and inability to promptly close those cases which fall beyond our jurisdiction.



9.4	<b>Complaints Registered August 1994 to August 1995</b>	<b>Complaints Registered September 1995 to August 1996</b>	<b>Complaints Registered September 1996 to August 1997</b>	<b>Complaints Registered September 1997 to October 29 1997</b>
	62	208	353	196

These figures show the steady increase in complaints received since we opened the Office in 1994.

In total, 819 complaints have been registered to date. Of this number, 413 have been recorded in our Case Tracking system as open and under investigation at present.

50% of our complaints have therefore been recorded as concluded and closed.

### ***Types of Complainants***

	<b>96/97</b>	<b>95/96</b>
Government Employee	97	40
Private Persons	186	84
Private Business	14	12
Minister	3	1
Member of Parliament	2	0
Provincial Member	0	0
Own Initiative	51	71 <sup>1</sup>

### ***Methods of Receipt of Complaint***

	<b>96/97</b>	<b>95/96</b>
Visits to the Ombudsman's Office	182	45
Visits to the Prison by Ombudsman's Office	19	42
Letters to the Ombudsman	89	45
Telephone calls to Ombudsman	12	5
Own Initiative inquiries	51	71

- 9.5 We anticipate a decrease in office visits, with a corresponding increase in written complaints, due to a recently adopted policy whereby we provide an explanatory brochure and a Complaint Form for individuals to complete and submit for review. As indicated in our previous report, complainants often do not want their names in the complaint for fear of indirect consequences to themselves, and we have often used our powers to initiate investigations on our own to protect them. Most of our "own Initiative" inquiries in fact arise from complaints of individuals.

<sup>1</sup> This figure includes 16 Multilingual inquiries opened on our own initiative; they remain open to date.

### ***Jurisdiction***

- 9.5 This year, 14% of the complaints received by this Office raised issues that fell beyond the Ombudsman's jurisdiction to investigate. This statistic indicates no significant change from the former previous year.

	<b>96/97</b>	<b>95/96</b>
Within Jurisdiction	306	181
Beyond Jurisdiction	47 (14%)	27 (13%)

### ***Categories of Complaints***

	<b>96-97</b>	<b>95/96</b>
Unfair Decision/Action	71	41
Administrative Error	5	7
General Maladministration	136	104
Abuse of Power	51	16
Discrimination	14	3
Corruption	17	7
Other	59	30

### ***Results of Complaints***

	<b>96/97</b>	<b>95/96</b>
Files opened for inquiries	249	72
Declined to investigate	104	115

- 9.6 Whilst the Ombudsman's Office declined to investigate 104 complaints, we assisted the vast majority of these complainants by referring them to various authorities, including the Labour Department, the Police Department, Public Prosecution, the Public Solicitor and the Vanuatu Women's Centre. A small number of complainants came to seek advice alone and on these instances, we made a preliminary inquiry before we declined to investigate.

- 9.7 Our records indicate the following reasons (under the Ombudsman Act) for declining to conduct a formal investigation into complaints received:

	<b>96/97</b>	<b>95/96</b>
S 16 (1) (a) No jurisdiction	31	27

S 16 (1) (b) Trivial or without good faith	11	1
S 16 (1) (c) Other remedy available	59	64
S 16 (1) (d) Complainant's interest not related	0	19
S 16 (1) (e) Matter too long delayed	2	1
S 16 (1) (f) Complainant has lost interest	0	2
S 16 (1) (g) Other matters more worthy of attention	0	0
S 16 (1) (h) Insufficient resources	1	3

### ***Closed Cases***

	<b>96/97</b>	<b>95/96</b>
Total number of cases investigated	357	124
Cases concluded and closed	26	20
Cases remaining open	331	104

9.8 These figures reveal the growing number of cases under investigation. In addition, they also show the small number of cases closed during the year. This reflects, in part, the overwhelming workload of the staff, which creates inefficiency in conducting and concluding investigations, and the lack of training for the investigators to handle the cases in the most efficient manner.

9.9 The results of recorded closed cases were as follows:

1	Complaint found justified and resolved	3
2.	Complaint found not justified under S.16 (1) (b)	4
3.	Investigation halted without findings due to:	
(i)	S.16 (1) (a) No Jurisdiction	13
(ii)	S.16 (1) (c) Other remedies available	1

(iii)	S. 16 (1) (e)	Complaint too long delayed	1
(iv)	S.16 (1) (f)	Insufficient interest on the case	1
(v)	S.16 (1) (h)	Insufficient resources	1

- 9.10 The number of complaints closed due to lack of jurisdiction has risen from 10% in 1995-96 to 50% in 1996-97.

### ***Distribution of Complaints By Agency (in alphabetical order)***

#### **Constitutional Institutions**

	<b>96/97</b>	<b>95/96</b>
Electoral Commission	1	2
Judicial Services Commission	0	4
Magistrate Court	1	0
Malvatumauri Office	1	0
Parliamentary services	0	2
Public Prosecutions	3	0
Public Service Commission	7	3
Public Solicitor's Office	3	1
Speaker of Parliament	1	0
Supreme Court	1	1
Tafea Magistrate Court	1	0

#### **Ministerial Services**

	<b>96/97</b>	<b>95/96</b>
Ministry of Agriculture	3	1
Ministry of Commerce and Trade	?	?
Ministry of Education	5	2
Ministry of Finance	3	4
Ministry of Foreign Affairs	3	2
Ministry of Home Affairs	1	2
Ministry of Justice	4	0



Ministry of Lands	5	1
Ministry of Natural Resources	0	1
Ministry of Public Works	7	0
Ministry of Tourism	2	2
Prime Minister's Office	8	8

**National Government Departments**

	<b>96/97</b>	<b>95/96</b>
Agriculture, Livestock	1	1
Attorney General's Chambers	2	1
Cooperatives	0	4
Civil Aviation	2	0
Customs & Taxes	6	0
Education	1	3
Environment	0	2
Finance	6	1
Fisheries	2	0
Foreign Affairs	1	1
Forestry	0	1
Government Training Centre	1	0
Health	12	14
Immigration	4	1
Industry, Trade, Commerce	0	1
Labour	5	1
Lands	15	9
Land Records	1	0
Lands Survey	2	0
Language Services	0	2
Meteorological	0	2

National Planning	0	1
National Statistics	0	1
Police	39	44
Ports & Marine	1	0
Postal Services	0	2
Provincial Affairs	0	1
Public Service	14	7
Public Works	6	5
Scholarship Unit	0	1
State Prosecutions	1	0
National Disaster Management	0	1
Vila Central Hospital	4	0
Youth and Sports	1	0

**Public Authorities**

	<b>96/97</b>	<b>95/96</b>
Air Vanuatu	0	1
Air Vanuatu Board of Directors	2	0
Development Bank of Vanuatu	5	1
Ex-French E'yees Compensation C'ttee	1	0
Vanuatu Health Practitioners Board	1	0
Luganville Housing Corporation	1	0
National Bank of Vanuatu	8	3
National Tourism Office	0	1
Consular Office in Noumea	0	1
Independence Organising Committee of	1	0
Public Service Disciplinary Board	1	0
Reserve Bank Vanuatu Selection Cte	1	0
South Pacific Fishing Coy Board	1	0

South Pacific Fishing Company	3	0
Teaching Services Commission	3	2
Vanair Ltd.	1	0
VBTC	0	1
VCMB	2	1
VMF	1	0
VNHC	2	2
VNPF Board of Directors	2	0
VNPF	5	3

**Privatised Authorities**

	<b>96/97</b>	<b>95/96</b>
Telecom. Vanuatu Ltd.	0	2
Tour Vanuatu Ltd.	1	0
Vanuatu Coconut Productions Ltd.	1	0
Vanuatu Holdings	0	1

**Provincial Governments**

	<b>96/97</b>	<b>95/96</b>
Sanma Provincial Govt.	1	0
Shefa Provincial Govt.	0	1
Penama Provincial Govt.	1	0
Torba Provincial Govt.	0	1

**Provincial Departments**

	<b>96/97</b>	<b>95/96</b>
	0	0

**Members of Parliament**

	<b>96/97</b>	<b>95/96</b>
All Ministers	1	0
Hon. MP Alfred Maseng	0	1
Hon. MP Amos Bangabiti	0	1
Hon. MP Barak Sope	3	3
Hon. MP Charlie Nako	1	0
Hon. MP Faratia Thomas Prothy	0	1
Hon. MP Gideon Bakon Fred	1	0
Hon MP Maxime Carlot Korman	5	1
Hon. MP Paul Telukluk	2	1
Hon. MP Willy Jimmy	1	1

**Members of Provincial Governments**

	<b>96/97</b>	<b>95/96</b>
Sanma Provincial Council	1	0
Shefa Provincial Council	1	0
Penama Provincial Council	1	0

**Local Government Councils**

	<b>96/97</b>	<b>95/96</b>
Port Vila Municipality	3	0
Luganville Municipality	1	0

**Educational Institutions**

	<b>96/97</b>	<b>95/96</b>
Central Primary School	1	0



**Public Servants**

96/97	95/96
49	7

**Private Persons or Firms**

96/97	95/96
19	7

**Others (General Queries)**

96/97	95/96
19	5

**Provinces Where Conduct Occurred**

	September 1996 to August 1997	September 1995 to August 1996
Shefa	301	187
Malampa	4	3
Penama	11	0
Torba	2	3
Sanma	25	11
Tafea	9	4

- 9.11 As these figures indicate, the vast majority of complaints arose in Shefa Province, the seat of national government and Vanuatu's commercial center. Lack of resources has prevented any official visits by representatives of this office to the islands. This will change next year due to the funding that the Office is to receive from European Union and UNDP, as described above in paragraphs 4.9-4.10 and 7.9.

**Examples of Cases Resolved Without Public Report**

**IMMIGRATION**

- 9.12 We received a complaint from an expatriate who has resided in Vanuatu since before Independence. Apparently, an Immigration Officer tried to help a citizen who had a labour dispute with the expatriate after having been dismissed from work. The Officer threatened not to renew the expatriate's residency permit if he did not pay all the claimed worker's allowances.

- 9.13 We contacted the Immigration Officer concerned and explained to him that he had no authority to address a labour dispute. As the labour dispute matter had gone to Court, the Officer ran the risk of acting in contempt of the Court.
- 9.14 The Ombudsman told the officer that he could resolve the matter if he apologised to the expatriate and processed the application in accordance with the normal procedures. The matter was also referred to the Ministry responsible and instructions were given for the officer to proceed with the apology. The complaint ended there and the complainant was satisfied with the result.

#### **MINISTRY OF EDUCATION**

- 9.15 Mr X complained to the Office in March that, after he had been compulsorily retired as a teacher in January, he had not received his retirement benefits. He had approached the Department of Education several times to no avail.
- 9.16 The Office started a preliminary investigation by contacting the Department. It was agreed that a payment would be made by April, and that failure to do so would result in the Office investigating the retirement of teachers, non-planning of budgetary funds and responsibility for this lack of planning. Mr X later confirmed that he had received his benefits at the end of April.

#### **POLICE DEPARTMENT**

- 9.17 Mr Mista was approached by a Police Officer who demanded that he give VT 15,000 to his former girlfriend for accommodation rent. The Officer was a relative of the ex-girlfriend.
- 9.18 Mr Mista complied with what he thought was the Officer's order, but was curious to know the legality of his actions. He consulted the Public Solicitor's Office, who informed him that such an act was illegal as the Officer had not acted with an order. Mr Mista was then referred to the Ombudsman's Office.
- 9.19 The Ombudsman informed the Police Officer that his actions had been illegal and asked him to return Mr Mista's money. That same day, Mr Mista received his money from the Police Officer.

#### **MALEKULA ISLAND COURT**

- 9.20 Miss X lodged a complaint in September against the officers of the Island Court at Lakatoro in Malekula for not enforcing the court decision requiring her ex-husband to pay VT 4,000 child maintenance to her each month. She approached the Island Court Office several times to seek advice as to whether her ex-husband would pay the child maintenance. The Island Court was never acted upon her requests. She also claimed that Miss Y, who worked in the Island Court Office as a secretary/typist, was related to her ex-husband, so she suspected that Miss Y was responsible for the lack of action on her complaint.
- 9.21 After receiving the complaint, the Ombudsman contacted the police officers at the Lakatoro Police Station and referred the matter to them to follow up with the Clerk of the Island Court. The complainant was advised accordingly.

#### **NATIONAL BANK OF VANUATU**

- 9.22 Mr YY was a former employee of the National Bank of Vanuatu (NBV). In October 1996, he lodged a complaint against the Management of NBV for non-payment of his severance entitlements after his termination from services in May 1994.

- 9.23 The Ombudsman notified the General Manager of NBV and requested the reasons for Mr YY's termination and an explanation for the delay in severance payments. Management replied that Mr YY was found to have been over the retirement age and that was the main reason for his termination.
- 9.24 Regarding the delay in the non-payment of the severance entitlements, NBV advised that Mr YY had outstanding debts at that time with the Bank, a statement which contradicted Mr YY's statement to the Office.
- 9.25 We followed up with NBV and, in February, the Office received a copy of a letter from the deputy General Manager of the bank to Mr YY, in which NBV agreed to settle Mr YY's retirement benefits.
- 9.26 In March, the Ombudsman received a phone call from Mr YY from his home island to convey his gratitude for making it possible for him to receive his entitlements after more than two years of asking. He believed that, without the Ombudsman's Office, he would not have received his benefits.

### **FORMER MINISTER OF EDUCATION**

- 9.27 Parents of a 9 year-old child complained to the Office of Ombudsman that there was no Class 4 teacher at the start of this school year at Fresh Wota Primary School. They wanted the Office to help their son go to school there because they had been living in the Fresh Wota area for more than 2 years and had been assured that there would be a place for him there.
- 9.28 They had contacted the Provincial Education Office and the Ministry of Education, who were not helpful. Apparently, the then Minister of Education advised that there will be no recruitment of teachers because the Ministry wanted to revise the procedures in recruiting teachers.
- 9.29 Following a telephone conversation between the Ombudsman and the school authorities of Fresh Wota Primary School, the 9 year-old concerned was accepted and integrated into the existing Class 5 instead of Class 4.
- 9.30 This did not sort out the problem at Fresh Wota Primary School. We have heard of pupils who do not have classes but we have not received any complaints. In sum, the complaint put forward by the 9 year-old's parents was sorted out following Office's intervention.

## **10 RECOMMENDATIONS**

- 10.1 The following recommendations arise from our experience and enquiries during the past year. We understand that some laws are being prepared to be presented to next Parliament through the Comprehensive Reform Program but, as we are not aware of their content, we will still outline the main modifications we see as indispensable to an improvement of some basic functions of the Public Service.
- 10.2 The Financial Regulations and the Public Finance Act should include strict responsibility for the civil servants who sign the Government's orders of payments (LPO, GPV or cheques). Breaches of these laws or misappropriation should be criminal offences carrying prison sentences or/and fines.
- 10.3 Public Servants who have committed misappropriation (i.e: signing an LPO for their own interest) should be immediately suspended or dismissed from Public Service, and charges should be pressed at the Public Prosecutor's Office. Too often many people who have "borrowed" money from their Office are told to remain in their jobs and repay what they have stolen. This is contrary to the existing rules in the Public Service and only encourages public servants to continue stealing. It seems that if they steal, they have a better chance to keep their job until they have finished repaying what they took.

## ***Appointments***

### **Auditor General**

- 10.4 We urge the Public Service Commission to appoint a qualified Chartered/Accountant as Auditor General. If there are no qualified ni-Vanuatu, we recommend that the Government look in the Pacific Region for a candidate and upgrade the conditions if necessary to find the appropriate candidate for a government contract.

### **Public Prosecutor**

- 10.5 The Public Prosecutor should be assisted by a minimum of 2 prosecutors, as already stated by the Australian legal team who assessed the needs of the Office. Major problems of delays and non-prosecution cannot continue, as offenders know they can get away because of the overload of the system and the lack of experience of the professional staff.

### **Public Solicitor**

- 10.6 The Government should immediately reinforce the Public Solicitor's Office and make sure the present Australian assistance continues and is increased by 2 solicitors (volunteers and others) to share the work load. On a daily basis, we refer grassroots cases to the Public Solicitor and realise that their working load is extremely difficult to handle and that a lot of people cannot get the assistance they need.

### **Hospital**

- 10.7 The Government must make a top priority the appointment of one or two Gynaecologist/Obstetricians in the country and to put this position on the top priority of their overseas assistance requests. There is no gynaecologist in the entire country. We issued this recommendation on 28.05.97 and, to date, the Director of the Health Services has not even applied for this appointment to be considered by the National Planning Office as a priority. It appears maybe that for the leaders of this country who are predominantly males, this is not a priority to give a gynaecologist to half of the population.

### **Ministry and Department of Lands**

- 10.8 This office investigates many complaints of alleged maladministration and misuse of power in the Ministry and Department of Lands. These complaints suggest a disturbing lack of knowledge of the laws and Constitution. It appears that there are no policies to guide the setting of prices for government land sold for social purposes (ie, to disadvantaged people), for sales to friends of Lands Ministry employees or for sales to un-connected citizens making application. Many prices appear to fall far below the market value, which represents a loss for the people of Vanuatu. Apparently, the Lands Ministry intends to remove many decisions from the committees and place them in the hands of the Minister. We therefore strongly recommend that the position of Technical/Legal Adviser to the Minister be re-established and occupied by a professional in the field.

### **Department of Labour**

- 10.9 The government should appoint a lawyer to serve as Legal Counsel to the Department of Labour.



## Ombudsman

- 10.10 The financial conditions of the Ombudsman must be reviewed before the next appointment in order to find the candidate with the right calibre, professional experience and qualifications.

## **11 ACKNOWLEDGMENTS**

- 11.1 The Ombudsman's Office extends its gratitude and appreciation to His Excellency, Mr Jean Marie Leye Leneclau, for his ongoing support of the Office, particularly so during some challenging times faced by the Ombudsman during 1997.
- 11.2 The Ombudsman's Office offers its thanks to the Vanuatu Government and Council of Ministers for continuing to fund the Office and also increasing this budget in line with the growth of the Office.
- 11.3 The Ombudsman's Office wishes to extend its thanks to the Judiciary and Registry staff for its assistance and very hard work during the year. The Ombudsman has filed a number of cases this year and conducted a number of prosecutions. The Court system in Vanuatu is strengthening and the Ombudsman's Office, along with all others using the Courts, has benefited from the great improvements that have been made since the appointment of the Acting Chief Justice.
- 11.4 The Ombudsman's Office could not have achieved what it has this year without the continual support, encouragement and prayers of the Malvatumauri and chiefs throughout the country and the Vanuatu Council of Churches and all church leaders around the country. Your networks are very important in delivering our message. Without you we simply could not do what the Constitution requires the Ombudsman to do. Thank you for all the help.
- 11.5 The Ombudsman's Office has also benefited from the increasingly free and mature media of Vanuatu. The Trading Post and, to a much greater extent than last year, the Vanuatu Weekly and Radio Vanuatu have widely carried reports of Public Reports and court cases involving the Ombudsman's Office. Internationally, activities of the Office have been reported and broadcasted throughout the Pacific by Radio Australia and Radio New Zealand, BBC International and RFO. We thank those in the media for their continued interest and coverage.
- 11.6 Making up all the church groups, nakamals and other meeting places throughout Vanuatu are, of course, the People. The belief that the People have placed in the Ombudsman's Office is a heavy responsibility but it is also our source of inspiration. When things are dark, you, the grassroots, through your messages of support, are lifeblood and keep us going. Thank you.
- 11.7 The Vanuatu Police Force has been instrumental in providing unique technical assistance to us on many occasions. This assistance has taken the form of delivering reports and urgent correspondence, as well as serving legal summonses, especially in rural or remote areas. We are grateful for their time and expertise in handling such matters professionally and expeditiously.
- 11.8 There has, as already indicated in this annual report, been very generous financial and technical assistance extended to the Ombudsman's Office in one form or another. As with the belief of the People and the support of the Malvatumauri, Churches and President, the Ombudsman's Office could not function properly without the generosity of our Pacific neighbours Australia and New Zealand and, further afield, the European Union and UNDP. The Office therefore extends its warm gratitude to these aid donors. Thanks also must go to the Canadian Government and the Commonwealth Secretariat, who are both now in their second year of funding the Office's Director of Language Rights and Legal Counsel, respectively.



- 11.9 Thank you to the European Union for assisting us in financing a 2-year contract for a corporate manager and what will be our highlight next year, an Ombudsman and staff visit to most of the villages of the 80 islands of the archipelago in the local army boat.
- 11.10 Thank you to UNDP for its efficiency in setting up an awareness program under good governance for the Office of the Ombudsman and other Vanuatu institutions. This program must still be signed by the Vanuatu Government.
- 11.11 Thank you to Daniel Jacoby, Ombudsman of Quebec (Protecteur du Citoyen) for organising in June 1997 the first World Francophone Ombudsmans and "Mediateurs" Conference.
- 11.12 Thank you to Agence de la Francophonie (ACCT), for financing this world Francophone Conference.
- 11.13 Thank you to Peter Boyle and his team, Ombudsman of Darwin N.T. Australia, for all of your work to organise the regional conference and the Australian Government for assistance for the payment of my costs.

***Long God Yumi Stanap***

Dated this 31th day of October 1997.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a long horizontal stroke at the end.

**MARIE NOELLE FERRIEUX PATTERSON**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

**ENCLOSURE A**

**THE PINA PACIFIC FREEDOM OF INFORMATION  
AWARD**

28/07/97

**(Pacific Islands News Association)**

Text read by a representative of PINA when giving the awards:

**THE WINNER OF THIS YEAR'S AWARD IS SOMEONE WHO HAS BEEN DESCRIBED AS THE BEST INVESTIGATIVE REPORTER IN THE PACIFIC ISLANDS TODAY.**

- **SHE COMBINES HER KNOWLEDGE OF THE LAW AND ACCOUNTING TO BRING TO THE PUBLIC DOMAIN ALL SORTS OF QUESTIONABLE PRACTICES BY PEOPLE IN PUBLIC OFFICE. AND IN THE TRUE SPIRIT OF FREEDOM OF INFORMATION SHE ENSURES THAT HER FINDINGS ARE PASSED ON TO THE PUBLIC.**
- **ALTHOUGH SHE IS NOT STRICTLY A JOURNALIST HER PROFESSIONAL QUALITIES AND THE WAY SHE OPERATES MAKE HER AN EXCELLENT ROLE FOR INVESTIGATIVE REPORTERS.**

**IN SPITE OF ATTEMPTS TO PUT HER OUT OF HER JOB BY GOVERNMENT MINISTERS WHO HAVE BEEN SUBJECTS OF HER INVESTIGATIONS SHE CONTINUES TO OPERATE WITHOUT FEAR OF REPRISAL. THE PINA PACIFIC FREEDOM OF INFORMATION AWARD GOES TO**

***OMBUDSMAN MARIE NOELLE FERRIEUX PATTERSON.***

## **ENCLOSURE B**

### **SPEECH FOR THE FIRST CONGRESS OF OMBUDSMANS AND MEDIATEURS FROM FRANCOPHONE COUNTRIES QUEBEC CANADA - 09 - 12/06/97**

#### **The Ombudsman as a key to Social Peace**

Having dealt with the nature of the independence which the Constitution grants to the Office of the Ombudsman. I should like to comment on the factors which it appears to me - if I can quote the singer *"to give peace a chance"*.

It is easy to forget, but important to remember that the countries which are regarded as "stable" and old democracies have had several centuries to shake out their system and try to eliminate the flaws and develop respect for civil institutions and the rule of Law.

Walter Bagehot, probably the most famous of English political commentators on Constitutional matters, observed that the path to social peace was bound to be prolonged and fraught with problems. The said à propos:

*"The Slavish Parliament of Henry VIII grew into the murmuring Parliament of Queen Elizabeth, then the mutinous Parliament of James I and the rebellious Parliament of Charles I..."*

The people in general had little real feeling of Parliament accountability, but were affected primarily by a swinging back and forward of religious enthusiasms of one kind or another - which is often the true catalyst for change the world over as countries develop.

Even in France after all the developments of the Revolution, there was little comprehension among the population of the potential or the true status of representative government. The habit was preserved for a long time of looking vaguely towards king or aristocracy as sovereign. The "Reign of Terror" in France raised apprehensions everywhere regarding the dangers from arousing the enthusiasms and passions of the masses causing either civil uprising or military coups.

The gradual rise and awareness of a "middle class" in these countries and its accession to influence altered the power ratio, but it took a long time and it gradually emphasised the necessity of estimating accurately the ambience, the tenor and mood of the people.

We should remember that Parliamentary democracy was not, and is not, a pre-ordained approved Divine system of Government, it grew and developed slowly and painfully in nations accustomed to long, if uneven development.

We are now facing the possibility that many developing countries are moving towards the opinion that a different system of Government may be more appropriate for them as they try to weld together disparate tribes into a homogenous body in order to bring about some order that the people will respect and follow so we may see experiments with dictatorships of one kind or another - hopefully benign.

One of the biggest factors is the rise of a change of generations and the younger age of new leaders. People become restive under the prolonged government of the same old people, and a change seems to promise improvement. The religious struggles between Catholicism and Protestantism which convulsed Britain and Europe were a vital factor in postponing but ultimately promoting social peace and change and the subsequent ascendancy of Protestantism in Britain had unforeseen consequences in so far as the abolition of the hundred or so yearly "holy-days" of the Catholic Church towards the development of the "work ethic" which gave Britain its lead in the Industrial Revolution and the spread of her Empire.

The new evangelical emphasis helped to raise awareness of the need for personal discipline and greater honesty.

So it is important to remember that in all this prolonged process of democratising these societies and leading them towards the hope of social peace, it has taken a very long time before a role for an Ombudsman took effective root in people's minds and of course it is in many ways in its infancy still throughout the world.

An effective concept of "Civil Rights" is now a vital part of the foundation of any realistic social peace, and religious teachings and customs of the people.

To secure a harmonious balance between the perceived rights of the individual and the demands of communal living is no easy task. The fact that a well-know Constitution may exist is not guarantee that social peace will prevail, since there will always be underlying tensions and principles arising from the different expectations and hopes of different individuals and groups.

This would present problems even if leaders were models of unselfish and upright rectitude, but human nature has taught us that temptations are hard to resist and that: *"The love of money is the root of all evil"*.

There is little doubt that the failure to give a good ethical example in leader's lives is an important factor in fostering civil unrest. The corruption of the human heart plays a large and permanent part in the failure to achieve social peace.

The fact that *"all power tends to corrupt and absolute powers corrupts absolutely"* will be with us forever, and it is in this delicate area of restraint that the Ombudsman will be provided with the bulk of problems.

Powerful leaders do not find it easy to find their plans and actions assessed and restrained by an authority outside of their control, and it is this fact that makes the existence of an effective Leadership Code so vital in enforcing the kind of ethical conduct that has a chance of securing that social peace.

However, when all is said and done, societies are made up of individuals, and it is still good to remind ourselves - perhaps more than ever - as one philosopher observed, that all journeys however long, begin with one step, and the surest recipe will remain as it always was - namely *"with righteousness in the heart, there will be happiness in the home, with happiness in the home, there will be harmony in the country there will be peace in the world"*.

It all begins with you and me as individuals.  
We must all play a part, whatever that be.

## **ENCLOSURE C**

### **16TH AUSTRALASIAN AND PACIFIC OMBUDSMAN CONFERENCE AUGUST 1997**

**DARWIN NORTHERN TERRITORY**

#### ***THEME: CULTURAL SENSITIVITY OR SENSITIVITY TO CRITICISM***

In the course of pondering what contribution of value I might be able to make to this conference I was struck by the professional and managerial tone of the aims and subjects of the Conference as outlined in the guidelines provided.

I suppose that a primary reason for this sometimes daunting impression on my part is the very basic levels at which my position as Ombudsman in Vanuatu compels me to operate, and as a result I concluded that perhaps the most valuable approach I could take was one of simple and direct defining of what I have found to be the key factors in functioning effectively in an unsophisticated and somewhat non-literate environment.

This was the first time an Ombudsman was appointed since Independence in 1981 even though the position of Ombudsman was included in the Constitution from the beginning.

I understand that there were 8 applicants. In the particular circumstances of my being both female and non-black, I considered my chance was small despite being a citizen, but the challenge to do something effective for my adopted country was fairly compelling: the salary and conditions offered constituted some disappointment, given my career earnings till that point, but I swallowed hard and applied, perhaps supported by the belief that it was highly unlikely that I would be appointed.

In due course I was interviewed by the President, and subsequently offered the position. There were no precedents in Vanuatu to guide me. The appointment of Ombudsman had been delayed for fourteen years as a result of the various apprehensions of M.Ps regarding the powers that ought to be granted.

Public reactions tended to vary between the extremes of enthusiastic congratulations with great hopes to foreboding cynicism. These reactions have tended to continue to be held after the first three years, although there has been much more encouragement than disillusionment.

Traditional "custom roles" for woman constituted something of a barrier to acceptance of investigation processes and I was frequently warned that the native culture would not permit effective monitoring. However, one of the most interesting facts of my entire career to date has been the realisation that "custom" and "traditions" are largely irrelevant in the context of how people handle guilt and suspicion the world over.

In Vanuatu villages, Chiefs who are perceived to be guilty of some form of misconduct appear to be answerable to their people and in some cases can be demoted by losing rank in their chiefly status.

Over the last three years, I have kept close contacts with community leaders, organisations and Chiefs, and my work, my publication of reports and my approach have not resulted in my being criticised by Chiefs or Community or Church leaders or women's groups for displaying a lack of "cultural sensitivity".

The public in Vanuatu has shown itself to have a very healthy appetite for both the content and the style of my reports and I know of no reason why that should be any different anywhere.



It appears that the only ones who have shown some discontent with my work have been the leaders accused of misconduct in my public reports.

The Customs also can vary from village to village, from Island to Island as we have in Vanuatu more than 130 different languages. However over my 20 years in the Pacific I have found no essential differences between one nation and another, and my 3 years as Ombudsman have shown me that most men whether educated or not can use extremely sophisticated arguing techniques when seeking to evade blame or responsibility for graft, theft or many human characteristics that they share with the rest of humanity. They are in no doubt to what constitutes kindness or cruelty, loyalty, generosity, unselfishness, civic duty, family duty.. In other words the characteristics which are valuable and common to the human race.

It is this realisation that provides the title of my talk today. Is there any substance or any real merit in talking about "cultural sensitivity" where actual experience shows that what is really at stake is "sensitivity to criticism" -which is equally unwelcome the world over? We are hearing daily of the alarming scale of self-serving and corruption of leaders all around the globe, whether old democracies or new emerging independent nations.

These appear to be the reason for the creation of an organisations like Transparency International, an NGO fighting global corruption.

As a result it is less possible and less forgivable for those in so-called developed nations to adopt a patronising attitude to the "newcomers". The moral or ethical diseases of leaders are identical, and my experience is that it can be misleading to talk of bringing so-called professional or managerial skills into situations which may in fact only call for personal humility and understanding. The temptations to misappropriate funds and misuse power are enormous in contexts where power may change hands frequently, and great pressure is felt to "make hay while the sun shines", and to get rich while one can. All the management skills in the world will avail little if we overlook the fact that *"There -but for the grace of God-go I"*.

Having made this bid on behalf of sympathy with offenders, I wish to present an apparent contradiction in my actual experience. I was frequently warned -and am still- that I should "tread softly" and "handle with care" the matter of allocating blame or guilt arising from my investigations, but I have found that there appears to be a considerable skin of armour around the conscience which often has required a considerable pressure to pierce.

The very important power which is given to the Ombudsman to publish the findings of investigations of complaints which have proved justified has proved to be of enormous importance, and I have found that a straight "no-nonsense" approach to investigation is the most effective in countering deviousness and bluster and threat and that the clear unambiguous description of the matter in the Press and on the air has not only alerted the public but has made them much better informed of their role and rights.

I know that official reports are legendary for their diplomatic and obscure language and ramifications and qualities like tact, discretion and ambiguity feature strongly in case there should be embarrassing reactions.

I should point out too that some of the most strongly expressed misgivings of my methods of "telling it like it is" have come from "professional" colleagues- along with the implication "that such an approach "may not do my career any good".

The current unease over the released "secret document" for the Forum Economic Ministers Meeting in Cairns in Australia is a case in point. This Report was prepared to outline the profile of each of the Pacific countries participating to a Pacific Forum with an realistic assessment and profile was written on all the participating Ministers. This document was for Australian eyes only, but was left "by mistake on a table of the conference, and caused a diplomatic crisis because of the truths expressed about the leaders.

In this connection, it is interesting to take a look at the current attitude of the donors who are the Prime Donors of aid to their offer of several millions dollars to assist in the implementing of the Comprehensive Reform Program in Vanuatu. At the risk of appearing presumptuous about the

effectiveness or importance of the strong "watchdog" role of Ombudsman in how these funds are actually used, I have to ask myself and perhaps you if there can be a logical reason for this apparent reluctance to be seen associating directly with the controversial and critical role of monitoring the behaviour of leaders .

In Vanuatu for every dollar generated in the country, aid donors contribute another dollar.

To continue to give aid without effective supervision is simply to add to the current international unease with how aid is spent. However , it appears difficult to contemplate any more direct monitoring programme than has already proved so unpopular with much of the tax-paying public.

Perhaps the world-wide disease called "sleaze" requires more clear exposure, and not less, in order that the world's public -not only the Pacific- can be alerted to the extent of the danger. There is no doubt of the increasing disillusion over the giving of aid funds, both in terms of quantity and how it is distributed, as well as managed "on the ground".

There is also increasing cynicism and boredom with the incompetence of governments to deal with the social disasters accompanying the "global economy". No socio-political system has shown itself able to deal with man's personal drive towards power and wealth, and it is not difficult to understand the despair of the biblical writer who declared

*"The heart of man is deceitful above all things and desperately wicked : who can know it?"*

In other words, it is unlikely that preoccupation with "saving face" and "sensitivity to culture" will deal effectively with conduct which we all in every country know to be destructive and also in actual fact disapproved of by the guilty themselves; regardless of religious or ethnic background.

It has been said that "all that is required for evil to prevail is for good men to be silent". The kind of people that all throughout the globe recognised, however vaguely, as good people, have always been scarce. The power of example is still undiminished. It is unlikely that a world-scale moral or spiritual revival" will take place, and it is still true that the "longest journey begins with one step"

My public reports are deliberately direct and to the point and kept as simple as possible so that the majority of the population can understand and be interested in them.

Each of us - by doing what we know to be right and exposing what we know to be wrong - can make a difference.

**ENCLOSURE D****NAMES OF ISLANDS, VILLAGES INTENDED TO BE VISITED BY THE  
OMBUDSMAN'S OFFICE IN 1998 UNDER THE EUROPEAN UNION ASSISTANCE**

<u>Island</u>	<u>Village</u>	<u>Island</u>	<u>Village</u>
TORBA PROVINCE		<u>Tanna</u>	Isangel White Sands Imaki Middle Bush
<u>Torres Islands</u>			
Hiu	Pycu Metena		
Tegua	Lonakwarenga	<u>Aniwa</u>	Savai - Nakamal
Loh	Linua		
Toga	Kwuruetokwa	<u>Futuna</u>	Matangi (Mis. Bay)
<u>Banks Islands</u>		<u>Aneitym</u>	Port Patrick
Ureparapara	Leserepla	PENAMA PROVINCE	
Motalava	Ngerenigmail	<u>Ambae</u>	Walaha Saratamata Lolopuepue Nduindui
Vanualava	Sola (Port Patt.) Veutemboso Wasaka		
Mota	Mission Bay	<u>Maewo</u>	Asanvari Nasawa Kerebei
Gaua	Losalava		
Merig	Nakamal	<u>Pentecost</u>	Labultamata Loltong Melsisi Pangi
Merelava		MALAMPA PROVINCE	
SANMA PROVINCE		<u>Malekula</u>	Atchin Lakatoro Aulua Lamap South West Bay Masculin Akham
<u>Santo</u>	Malau/Tolomako Pesena Wunpuko Valpey Nogugu Wunavae Tasmate Wusi Tasiki		
<u>Malo</u>	Avunatari Nanuku Alowar	<u>Ambrym</u>	Olal Ranon Graig-Cove Sesivi Ulei
<u>Aore</u>	Aore High School	<u>Paama</u>	Liro
SHEFA PROVINCE		SHEFA PROVINCE	
<u>Makira</u>	Village	<u>Epi</u>	Nikaura Rovo Bay Burumba Port Quemi
<u>Mataso</u>	Nakamal		
<u>Buninga</u>	Nakamal	<u>Tongoa</u>	Morua H.Q.
Efate (Rural)		<u>Emae</u>	Nofo School
TAFEA PROVINCE		<u>Tongariki</u>	Health Centre
<u>Erromango</u>	Dillons Bay Ipota		