

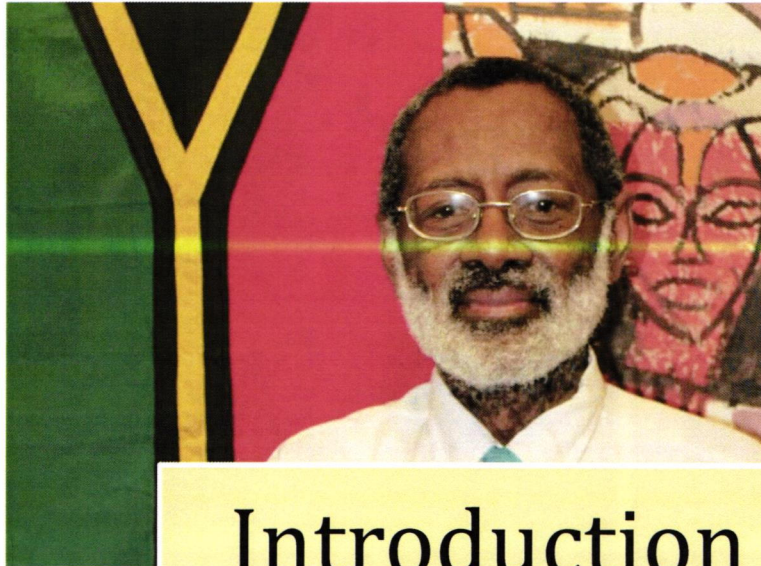
Office of the Ombudsman
Bureau du Médiateur
Ofis Blong Ombudsman



Annual Report 2019

Contents

Welcome! _____	3
Vision _____	9
Mission _____	9
2019 Business Plan _____	10
Effective and Prompt investigation of complaints and reduction of backlog cases _____	11
Complaints _____	12
Increasing and improving staff capacity _____	12
Reduction of backlog cases _____	12
Nature of complaints received _____	
Public Reports _____	14
Monitoring and enforcement of the use of three national languages _____	16
Progressing and effective Outreach Program to build a good working relationship with Government agencies & state institutions, NGOs and general public _____	19
Improve management of the human, physical and financial resources of the Ombudsman's Office _____	22
Enforcement of governing legislations _____	26
Additional functions of my office _____	27
Annexure 1: Financial information _____	27
List of all Government Agencies that Ombudsman has the jurisdiction to investigate: _____	31



Introduction

Welcome!

It is my pleasure to submit this report to the Honourable Prime Minister for presentation to Parliament, summarizing the activities, achievements, challenges, findings, and recommendations carried out by my Office in 2019.

Staff movements

2019 has been a busy and challenging year. But it has also been a year for growth for the country's "watch dog" i.e., the Office of the Ombudsman. Mr. Alain Wai Molgos, who from 14 March 2018 was the Acting Ombudsman, left the Office on 10 July 2019 on termination of his Acting Appointment. My formal appointment as the 6th Ombudsman of Vanuatu was made on the 10th of July 2019. In March 2019, my Office finally recruited a Legal Counsel to fill a vacancy that had existed since July 2018. Two staff members retired from the Office and an additional three staff members were recruited in 2019. My Office now has a total of 15 staff, compared to 18 staff in 2018.

Challenges and achievements

This year there were a lot of challenges faced by my Office, but also high productivity and positive feedback.

Since starting as Ombudsman, I have dealt with a backlog of cases, some of which were over 10 years old. Since January 2019, my Office was investigating a total of 245 complaints. This number is exclusive of 46 new complaints received in 2019. At the end of December 2019, the total number of registered complaints was reduced by 148. In comparison to 2018, this year, my Office investigated and closed 148 cases, compared to 75 cases that were closed in 2018. This was possible through the combined effort and team work of all investigators and my Legal Counsel, Mr Eric Csiba who created a strategy to clear the "backlog". I wish to extend a big thank you to the many government agencies that were cooperative to close complaints

associated with them. Many investigations were resolved with relevant government institutions and no reports were necessary. Some investigations were referred to other authorities with powers to deal with issues raised in the first instance. This shows that I cannot work in isolation to resolve or investigate a matter. I need and depend on the collaborative efforts of everyone concerned in a complaint.

Following my appointment in July, I took part in a number of awareness outreach programs with the public, local and government leaders and state institutions in Efate, communities in Pentecost, and leaders in Espiritu Santo and Vanua Lava. Due to budget constraints, my office was unable to reach out to other islands of Vanuatu.

In 2016, the Council of Ministers (COM) approved a COM paper to review the Ombudsman Act, the Leadership Code Act and the sections pertaining to the Ombudsman in the Constitution. After many attempts from the outgoing Legal Counsel and Ombudsman, this exercise was finally completed by my Legal Counsel and Management Team in 2019 under my supervision. The Amendments were debated in Parliament during the last sitting of the 11th Legislature and approved unanimously in December 2019. This is a great achievement and will lead to changes that better recognise my office as a truly independent watchdog, a key requirement for an Ombudsman.

Recommendations

In order to effectively and efficiently perform its duties and mandate, my Office requires additional staff to meet our objectives and deliverables. Adequate funding or finance is required to recruit more new staff.

The legal framework of my Office that was passed back in 1998 requires adequate change to align with or support the current and evolving work environment of the Ombudsman's Office. Being under the Public Service Commission (PSC) has caused many unnecessary delays to the work process of my Office especially when dealing with change to align with or support the current and evolving work environment of the Ombudsman's Office. Being under the Public Service Commission (PSC) has caused many unnecessary delays to the work process of my Office especially when dealing with urgent matters. I am highly recommending the Ombudsman's Office to be solely independent from the PSC hence in 2020, will work with appropriate authorities to implement this significant separation.

Looking forward

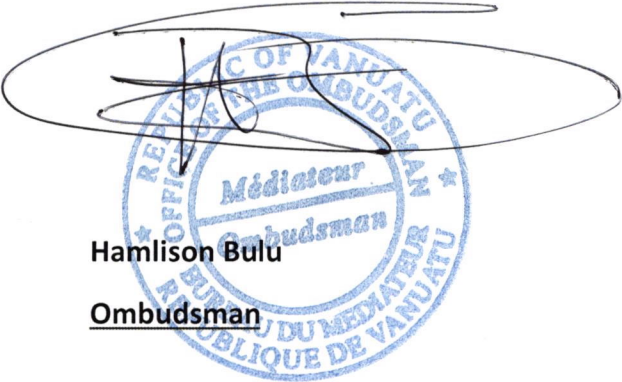
In 2019, my focus was on individual and institutional capacity building my staff to be able to perform their functions effectively.

In 2020, I will continue my Offices' partnership for learning from the New Zealand Ombudsman's Office.

I recognise that in order for my Office to deliver and implement the requirements of the Constitution, the Ombudsman's Act and the Constitution, the Ombudsman's Act and other relevant legislations mandating the work of the Ombudsman, our focus for 2020 will be training and upskilling investigators to effectively and efficiently do their work. My

investigators have, for a long time, lacked adequate investigation and report writing skills and I plan to improve this shortfall in 2020 onwards.

I take this opportunity to acknowledge my predecessors and all of my staff for their past and present achievements in ensuring that leaders and Government agencies' decisions and actions are done in accordance with the rule of law and that justice prevails at all times.



Hamlison Bulu
Ombudsman



2019 at a glance

Staff retreat

The year started with a retreat comprising all Office staff and the Acting Ombudsman Alain Wai Molgos. The retreat took place at the Department of Women's Affairs Conference room from 29 to 30 January 2019. The retreat was a time to review the way the Office functions and agree ways for the Office to better carry out its mandate of ensuring that leaders and government institutions uphold the law in all decisions made and actions taken. At the retreat the Office agreed its Business Plan for the year and actions to be carried out by different teams to achieve the business plan.

Recruitment

Employees are our most important asset. With the limited number of investigators at the Office, I have been aiming to recruit more staff each year. In 2019, the Ombudsman's Office recruited four (4) new Officers.

Prison Inspection Training

Prison inspection training was the first training undertaken for investigators in 2019. Training was conducted by two officers from the UNDP and three officers from the New Zealand Office of the Ombudsman. The training was attended by all 10 investigators on the 26th and 27th March 2019. Investigators developed their skills in receiving complaints and concerns of detainees and staff members employed at the Correctional Detention Centres. Following this, for the first time, my Office, in collaboration with the Director and staff of the Department of Correctional Services, successfully carried out a visit to all the Correctional Detention Centres in Port Vila on 05 April 2019.

Midyear retreat

From 1 to 5 July, my Office organized a midyear retreat to review work carried out up to that point to assess progress against our Business Plan. During the retreat, the Office reviewed its organisational structure and identified the need for a Deputy Ombudsman.

Appointment of 6th Ombudsman

I was appointed the 6th Ombudsman on 10 July 2019 and took my Oath of Office and Oath of Allegiance before the Head of State on 16th July 2019.

Staff training in Fiji

In July 2019, two members of staff attended a one-week training in Suva, Fiji, in investigations with other investigators from the Pacific. This training was sponsored by the International Ombudsman Institute (IOI) and jointly ran by the IOI and New Zealand and Australian Ombudsman offices. At the training staff strengthened international relationships and worked through the whole investigation process from incoming communication through to the conclusion of an investigation.

Pentecost awareness raising

During the final week of July 2019, my staff and I carried out awareness raising for the people of Pentecost. My team talked to three different communities in the south, central and northern part of the island about the role of the Ombudsman, why we need an Ombudsman, the Leadership Code, who are leaders in the community and how the people can help the Ombudsman ensure that the government is fair to them in all their decisions.

Clearing the backlog of cases

During the month of September 2019, a review took place to manage the high number of cases that were more than two years old and were not going anywhere. The number of such cases had grown due to the high turn-around of investigators leaving the Office and passing files on to other investigators to add to their workloads.

During the month of October 2019 new measures were put into place to deal with cases that were over two years old. My Office had never worked with this focus on backlogged cases previously. A new and vigorous approach was agreed to review backlog cases to resolve them at the earliest opportunity. My Office did this by allocating investigators to physical files, and allocating one day of the week to focus on the backlog cases. The number of cases has now been reduced to a level that can be managed in a timely way.

Leadership awareness campaign

During October, I carried out a leadership awareness program with leaders of the Luganville Municipal Council and the TORBA Provincial Government Council. In TORBA I was encouraged to visit the Torres Islands and talk to the leaders about the role of the Ombudsman, the purpose of the Leadership Code, and the role of the community to assist the Ombudsman hold the leaders and government institutions accountable for their decisions and actions. In discussions with the leaders in both Councils it became obvious that there is a need for

continuous dissemination of information on the laws to keep people informed of changes in laws and their duties as leaders to govern their people in their jurisdictions in accordance with the ever-changing laws, and their roles as leaders as required by the Leadership Code.

Ombudsman's visit to New Zealand

I spent a week in November in the Office of the Chief Ombudsman of New Zealand in Wellington on a learning exercise to build connections. The aim of the visit was to see how that office functions in carrying out its mandate. The New Zealand Office of the Chief Ombudsman, was selected due to the high regard it is held within New Zealand and the Pacific Region and the fact that it has a very rich history as being the first Ombudsman office to be established outside of Scandinavia.

Office extension

Work on the extension to the Office of the Ombudsman began on 27 December 2019 and is expected to be completed by April 2020. The current Office is cramped with no room to expand staff. The building was originally a small dwelling house originally and not designed to be an office. The extension will give my Office more space to be able to fit all staff and continue to grow.



Background

Vision

The Vision of my Office is:

To assist and encourage Government agencies and leaders carry out their roles and functions effectively, efficiently and fairly under the laws of the Republic of Vanuatu.

Mission

The Mission of my Office is:

- *To promote good administration, efficient governance and responsible leadership in Government, and to protect the use of the official languages to benefit of the people of the Republic of Vanuatu.*
- *The function of me and my Office is to investigate, to resolve or report and, where relevant, recommend prosecution, in relation to complaints concerning the three fundamental issues:*
 1. *Injustice or maladministration in the Public Service according to article 62 (2) of the Constitution of the Republic of Vanuatu;*
 2. *Breach of the Leadership Code and Leadership Code Act following article 66 of the Constitution of the Republic of Vanuatu and the Leadership Code Act;*
 3. *Breach of official language rights following article 64 of the Constitution of the Republic of Vanuatu.*

In undertaking these functions, I:

1. Enquire into any conduct on the part of any government agency;
2. Enquire into any defects in any law or administrative practice appearing from any matter being enquired into;
3. Enquire into any case of an alleged or suspected discriminatory practice by a government agency;
4. In respect of conduct of a leader occurring on or before the 1st day of July 1998, enquire into any case of alleged or suspected breach of Chapter 10 (Leadership Code) of the Constitution;
5. In respect of conduct of a leader occurring after 1st July 1998, to conduct an investigation in accordance with Part 5 of the Leadership Code [Cap. 240];
6. Undertake mediation in accordance with section 13 of the Ombudsman's Act.

As part of my functions, I publish public reports on the organisation's website and on the paclii website (www.paclii.org) about the results of any enquiries carried out by my Office, including any findings, recommendations and opinions.

My mandate to investigate complaints is very broad including police complaints, health complaints, educational complaints and statutory body's complaints. A list of the organisations I oversee in terms of breaches of the Leadership Code and Maladministration is found at **Annexure 2**.

2019 Business Plan

The 2019 Business plan sets the Objectives of the Office to enable it to undertake its functions. The objectives are:

1. Effective and Prompt investigation of complaints and reduction of backlog cases
2. Monitoring and enforcement of the use of 3 national languages
3. Progressing and effective Outreach Program to build a good working relationship with Government agencies & state institutions, Non-Governmental Organisations and general public
4. Improve management of the human, physical and financial resources of the Ombudsman's Office
5. Enforcement of governing legislations

My Office's progress against these objectives is set out below in my Report on Operations.






Report on Operations

Effective and Prompt investigation of complaints and reduction of backlog cases

As set out in the 2019 Business Plan, this objective was to be addressed by:

1. *Increasing and improving staff capacity; and*
2. *Reducing backlog cases.*

Strategy	Activity	Key Performance Indicator	Tracking as at end of 2019
(i) Increase & improve staff capacity	Recruit Filling Clerk, Assistant Investigator/Admin (Santo), Investigator (Santo, post# 0923)	Filling Clerk, Investigator and Assistant Investigator/Admin officers recruited by November 2019	
(ii) Reduce backlog cases	(i) Review backlog cases as priority cases	50% reduction of backlog cases by December 2019	
	(ii) Issue outstanding reports for cases warranting a report	5 reports Release by December 2019	

	(iii) Print Investigators ID cards and Business cards	ID cards and Business cards produced by April 2019	
--	---	--	---

In 2019, my Office successfully reduced the backlog of cases to more manageable levels. Some staff received training in 2019, but efforts are on-going to secure arrangements domestically and abroad to enhance the capacity of investigators to carry out investigations and improve staff capacity.

Complaints

At the end of December 2019, the total number of registered complaints was significantly reduced. In comparison to 2018, this year, my Office investigated and closed 148 cases, compared to 75 cases that were closed in 2018. This case reduction was made possible through the combined effort and team work of all investigators and my Legal Counsel to clear the “backlog”, and the cooperation of agencies involved in a case.

Increasing and improving staff capacity

I continuously support staff trainings and welcome attachments and internship opportunity for students. My Office has a lack of capacity to provide in house training in proper investigation techniques and report writing. Some new investigators joined the Office without any qualification in investigations, and must learn on the job. This can be very challenging.

This year, my Office increased its capacity by employing four more staff members. I will look to continue to increase the capacity of staff and other human resource requirements of the Office.

Specific trainings are described under the section on “Staff training”.

Reduction of backlog cases

Over a number of years, my Office has ended up with a “backlog” of cases. Backlog cases are complaints registered by my Office but have not been closed, and are over 2 years old.

The following are some reasons for the backlog of cases:

- during the term of the first Ombudsman, in 1999, the number of employees was approximately 25. This included foreign nationals who were employed to assist carry out investigations and other related tasks. In 2019 the number of investigators has dropped to 9.
- incomplete case files are sometimes passed on by investigators leaving the Office;
- investigators picking up extra files already have their own investigations to carry out and may not be familiar with the background of cases being passed on to them; and

- Some new investigators joined the Office without any qualification in investigations, and must learn on the job. There is lack of capacity to provide in house training in proper investigation techniques and report writing.

During the month of September, a new and vigorous review took place to manage the high number of cases that were more than two years old and resolve them at the earliest opportunity. An investigator was appointed by the Management Team to collect all the backlog physical files. The files were then assessed by the Legal Counsel, Director – Maladministration and Director – Leadership Code. Results of the assessment of backlog cases showed that complaints were not properly assessed to identify the breach of laws, some complaints had insufficient supporting documents and some, on the other hand, didn't fall under my Jurisdiction.

Files were then assigned to investigators. Investigators devoted each Monday to collectively review backlog cases. With the support of the Legal Counsel, the Office was able to close 148 cases at the end of 2019. This is a huge achievement. The number of cases has now been reduced to a level that can be managed.

There were 46 new complaints registered in 2019. The number was less than 2018, where 59 complaints were registered. During the final term of the first Ombudsman in 1998, 718 complaints were registered.

Despite clearing the backlog, investigations of both the new and old complaints are still hampered by the following challenges:

- a lack of cooperation by leaders and officers of government institutions whose conduct is being looked into;
- the capacity of officers to investigate complaints. Investigators do not go through a proper investigation process at the beginning of their engagement to properly prepare them to carry out investigations. Further, there is scarce capacity to provide in house investigation training to investigators; and
- the fact that officers are appointed by the Public Service Commission and report to the Commission and not the Ombudsman on employment matters. Investigations can go nowhere at times due to this relationship where it has been deemed that "you cannot investigate your own boss". Amendments to the Ombudsman Act will hopefully address this in the future.

Most cases at my Office are able to be resolved without a public report. It happens in the following ways:

- (a) during investigations the parties resolve the matter between themselves;
- (b) the complainant withdraws his or her complaint;
- (c) Complaints involving money owed, the respondent agrees and pays the money.