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# OFFICE OF THE OMBUDSMAN

## ANNUAL REPORT 2021

## Table of Contents

LIST OF ABBREVIATIONS.....	3
OMBUDSMAN OVERVIEW .....	4
JURISDICTION .....	6
FUNCTION .....	7
MEANS OF LODGING COMPLAINT.....	7
PROCESS OF HANDLING COMPLAINT.....	8
NATURE OF CASES.....	8
WORKLOAD AND STATISTIC.....	10
OVERALL STATISTIC.....	10
CASE ALOCATION.....	11
COMPLAINT INVESTIGATED & COMPLETED.....	12
ANNUAL RETURN.....	12
ISSUES & CHALLENGE.....	13
MONITORING &ENFORCEMENT OF 3 OFFICIAL LANGUAGES.....	15
PUBLICATION.....	23
LEGAL SERVICE.....	24
CONCLUSION .....	26

## LIST OF ABBREVIATIONS

**LCI- Leadership Code Investigation**  
**GCI- General Complaint Investigation**  
**PSC- Public Service Commission**  
**VNPF- Vanuatu National Provident Fund**  
**MESS- Members Education Support Scheme**  
**PR- Public Report**  
**CRM- Case Review Memorandum**  
**CCS- Closing Case Summary**  
**AR- Annual Returns**

## OMBUDSMAN OVERVIEW



I am delighted to present to you the annual report for the Office of the Ombudsman for the year 2021.

The year featured challenges and achievements for the Office.

Despite the global pandemic, which affected and continues to affect many countries in the world, Vanuatu, a small economy, felt its impact mostly economically, socially and psychologically.

The Vanuatu Government continued to commit significant budget to ensure national response plan is well implemented, isolation wards are well established and equipped, and front line workers are competent to handle confirmed cases and purchased and donated certified covid-19 vaccines are rolled out and reaching many people all possible. We applaud the country's medical experts and workers together with their partners for making sure that our beautiful Vanuatu is still free from Covid-19.

The pandemic also caused the Government to prioritise how the Country's funds are being allocated which also contributed to one of the Office major challenge this year being unable to acquire additional funding to effectively and efficiently carry out its functions.

My Office needed to regularly adjust the way investigations is conducted in order to continue to deal with the challenges as we move forward. For instance, investigators were issued instructions to work in teams instead of handling an investigation file individually, to strategically plan their investigations and use all means for gathering information during a normal investigation process or on a short period of time; we call it "snap short" of particular issue identified.

The Ombudsman for the first time also challenged some matters to court which is costly exercise and requires specific human resource capabilities to accomplish these



functions. Challenges mostly related to cost for filing matters to court, engaging experience lawyers to prepare submissions to court due to lack of human resource capacity and the claims ordered by Court for the Ombudsman Office to meet. Some of these court matters are still ongoing.

The newly vested annual return function of the Ombudsman remains a significant challenge. Not only the government has not financially support the Office to ensure an increase in the office human resources but the list of false fillers to be prosecuted is significant for only one Investigator and one Legal Officer to handle.

This year was highly regarded as a learning period for the Office in slowly implementing some of its powers specifically with taking matters to Court as provided by the Ombudsman Act.

Despite these challenges, the Ombudsman Office successfully closed a total of 46 cases, issued 4 public reports, referred 1 complaint to other authorities and resolved complainant grievance without starting an investigation. We are pleased that some of our recommendations made to government agencies were accepted to improve administration and good governance.


The Ombudsman Office also focuses on up skilling its investigators therefore virtual trainings were conducted throughout the year with the assistance of the New Zealand Office of the Chief Ombudsman and with the support of the New Zealand High Commission's Office in Vanuatu; A partnership that our Office treasures and will continue to look forward for more in the future.

The year ahead will see further work on amending the governing laws; the Ombudsman Act and the Leadership Code Act, to strengthen identified gaps in the Ombudsman dealings, establishment of five years Corporate Plan for the Office, a reinforced organisational structure to support and implement the Office's plans.

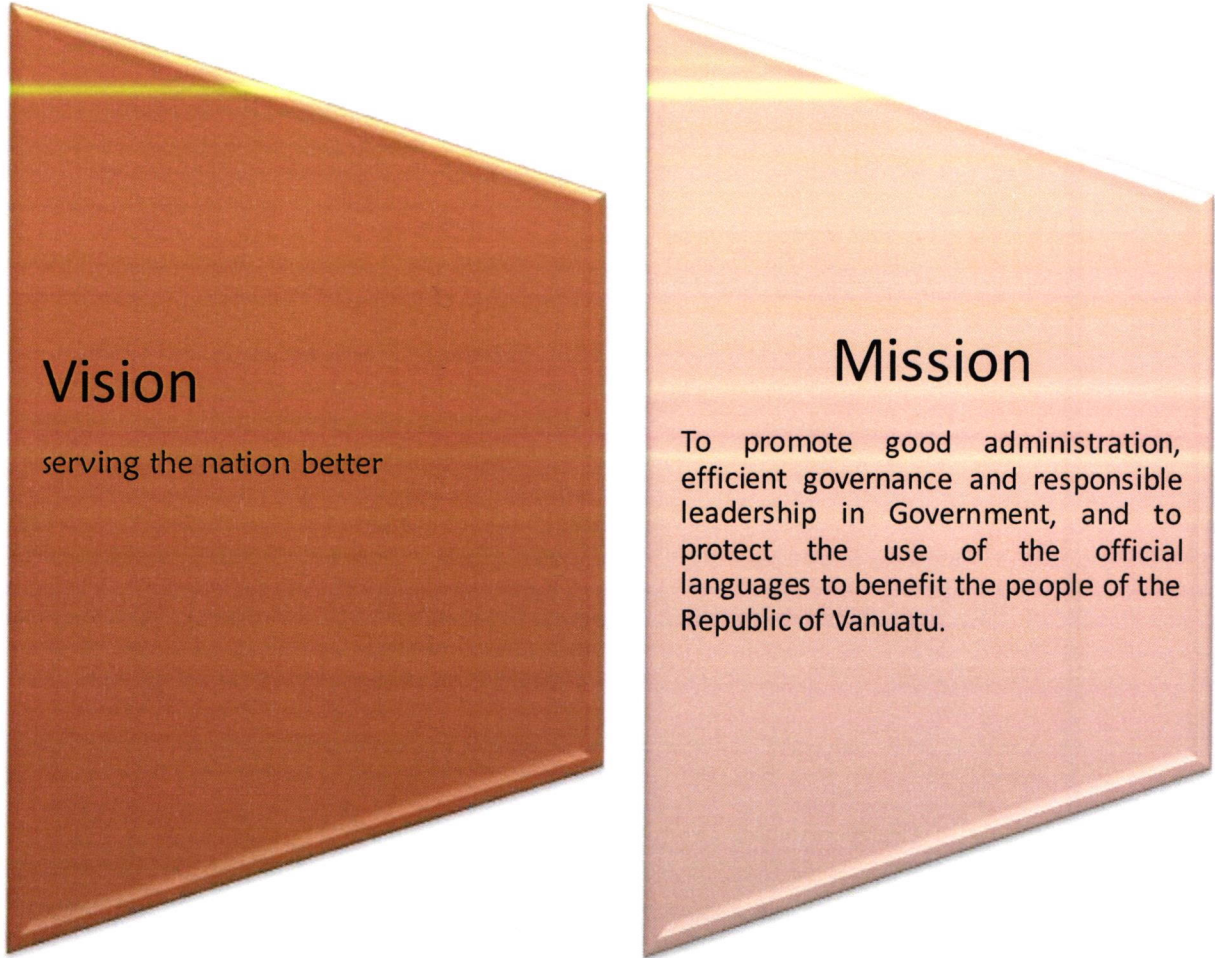
None of the Office's achievements would have be possible without the dedication and hard work of my Executive team and all the staff, whom I thank sincerely for their efforts including the support from our international partners.

Thank you for your consideration and I look forward to another successful year 2022.

Sincerely,



**Hamlison BULU**  
**Ombudsman**  
**Republic of Vanuatu**



## Vision

serving the nation better

## Mission

To promote good administration, efficient governance and responsible leadership in Government, and to protect the use of the official languages to benefit the people of the Republic of Vanuatu.

## JURISDICTION

The Constitution and Leadership Code Act mandates the Ombudsman to enquire into the conduct of public servants, public authorities and ministerial departments, with the exception of the President of the Republic, the Judicial Service, the Supreme Court and other judicial bodies.

Article 62 directs the Ombudsman to enquire into complaints received from a member of the public, at the request of a Minister, Member of Parliament, the National Council of Chiefs or Local Government Council or at the Ombudsman's own initiative.



Section 34 of the Leadership Code Act, [Cap.240] further echoes Article 62 in commanding the Ombudsman to investigate and report on the conduct of a leader (other than the President) if the Ombudsman receives a complaint against a leader, or the Ombudsman on reasonable grounds believed that a leader has breached the law.

The Leadership Code (amendment) Act of 2020 also gave the Ombudsman an additional function; to administer the Annual Returns filed by leaders. The functions include holding a leader criminally responsible for his or her failure to comply with the Act.

Nevertheless, section 18 of the Ombudsman Act, [Cap. 252] ties the hands of the Ombudsman too from investigating certain complaints. It is not against the law for the Ombudsman to refuse or decline from investigating a complaint received and registered.

Article 64 of the Constitution calls for the right of a citizen of Vanuatu to obtain government services in the official language that he or she uses. Vanuatu has three official languages: Bislama, French and English. A citizen may make a complaint to the Ombudsman if he or she feels that this right has not been fulfilled.

## FUNCTIONS

In 2021, the Ombudsman continued to carry out the following functions:

- enquired into any conduct on the part of any government agency;
- enquired into any defects in any law or administrative practice appearing from any matter being enquired into;
- enquired into any case of an alleged or suspected discriminatory practice by a government agency;
- enquired into any case of alleged or suspected breach of Chapter 10 (Leadership Code) of the Constitution;
- to conducted an investigation in accordance with Part 5 of the Leadership Code [Cap. 240];
- to undertook mediation in accordance with section 13 of the Act.

The Ombudsman also exercised his functions:

- a) on the complaint of a person or body referred to in Article 62(1)(a) or (b) of the Constitution; or
- b) on his own initiative.

## MEANS OF LODGING COMPLAINTS TO THE OMBUDSMAN

There are different means of complaints made to the Ombudsman;

- I. complainant approach the Ombudsman and lodge a complaint based on the injustice he/she faced in the work place;

- II. phone call complaints are made when complainant lives in a remote place;
- III. Ombudsman receive reports from other integrity institutions This forms the basis for an Own Initiative investigation;
- IV. Information received from social media, example, newspaper, Facebook post, radio can form the basis of an Own Initiative Investigation

## PROCESS OF HANDLING COMPLAINTS

After I took up the office in July 2019, I noticed a high number+ of backlog cases dated back to 1998 up to 2000. I made my first approach with the help of team leaders to identify the backlog cases pending investigation and close them.

One of the many reasons of backlog cases was no proper assessment of complaints. Complaints were taken on board without proper assessment pursuant to section 18 of the Ombudsman Act.

In 2021, the Office of the Ombudsman developed a new complaint handling process. Main reasons for developing this new process is to;

(a) avoid backlog cases; and

(b) to prepare proper investigation plans before carrying out investigations. Investigations are carried out in accordance with the plan and are expected to be completed within 3 months, 6 months or 12 months.

### Nature of cases

Complaints received by way of complaints to the Ombudsman are dealt with through 2 categories of investigations proceeding, according to the nature of the complaint received:

- Civil nature, and
- Criminal nature.

The nature of the offences allegedly committed, triggering a complaint to be made, is determined through a strict scrutiny determination by the Ombudsman Legal Team based on the Ombudsman Act. After the assessment and the nature of the alleged misconduct has been determined the complaint is then delegated to either of the 2 investigation teams.

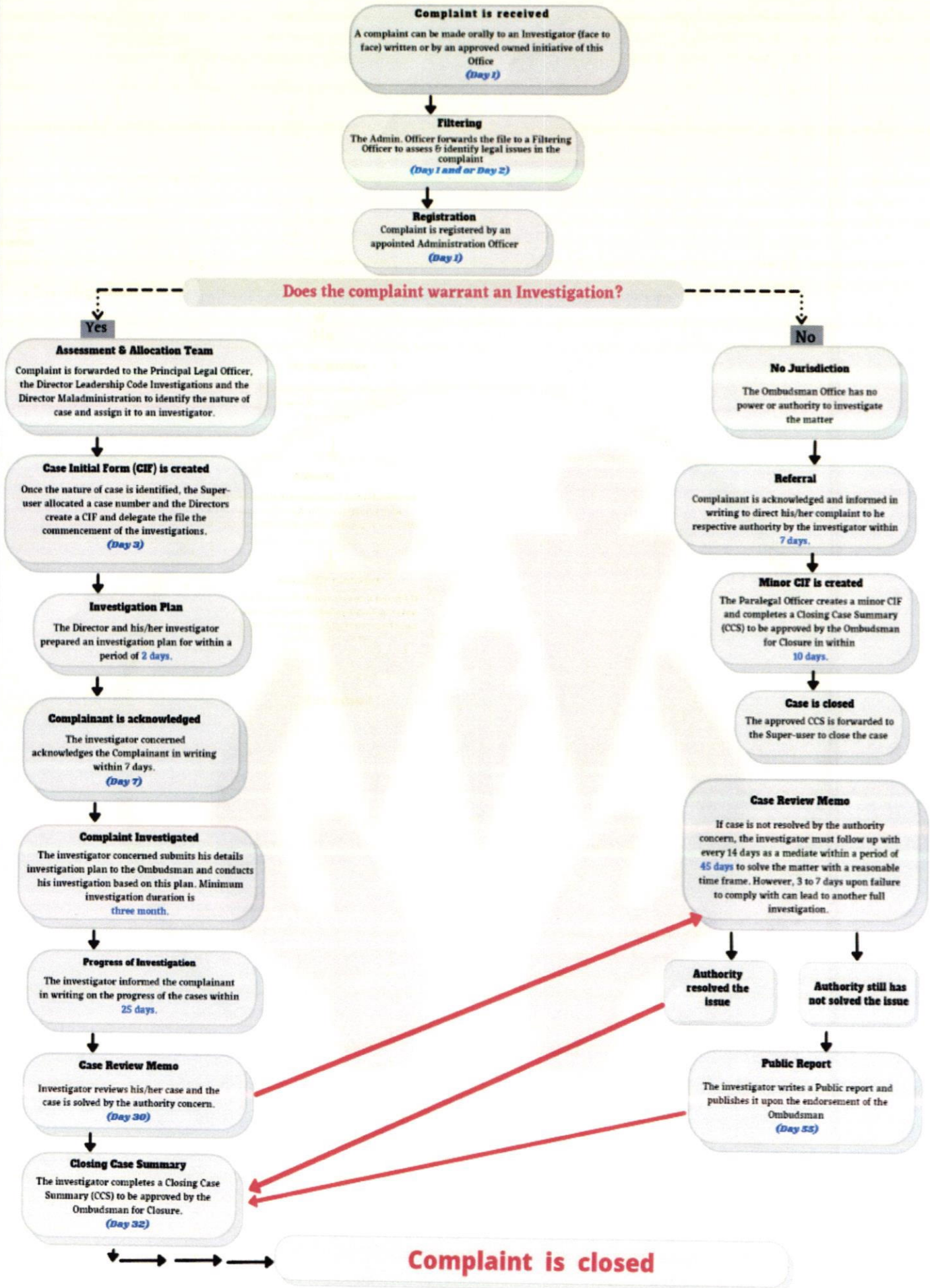
Complaints of civil nature are investigated by the General Complaints Investigation team while that of criminal nature is investigated by the Leadership Code Investigation team of the Ombudsman's Office.

Matters of civil nature may be resolved by relevant heads of government agencies or ended up in the Civil Courts of law. Matters of criminal nature may end up in the courts as well.



# Office of the Ombudsman

## Complaint Handling Process



## WORKLOAD AND STATISTICS

### Awareness program in 2021

The Ombudsman outreach or awareness program in 2021 have been successfully conducted through several areas in the Country (refer to picture below).



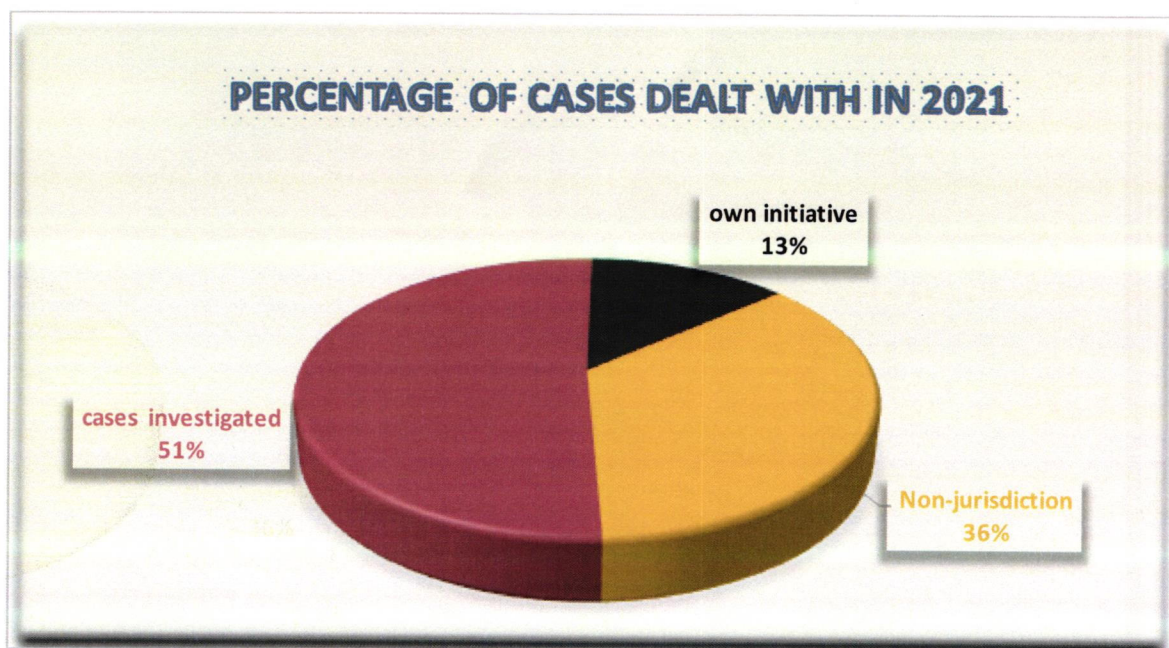
**The above picture shows the Ombudsman and staffs conducting awareness during the agriculture show on Tanna**

### Overall statistics

In 2021, the Ombudsman Office received a total of 59 new complaints. Eight (8) complaints are Own Initiative (OI) complaints pursuant to s20 of the Ombudsman Act. 21 fell in the category of non-jurisdiction after being assessed and closed based on s18 of the same Act, and 30 complaints falls within the jurisdiction.

The pie chart below shows the percentage of all new cases dealt with in 2021.

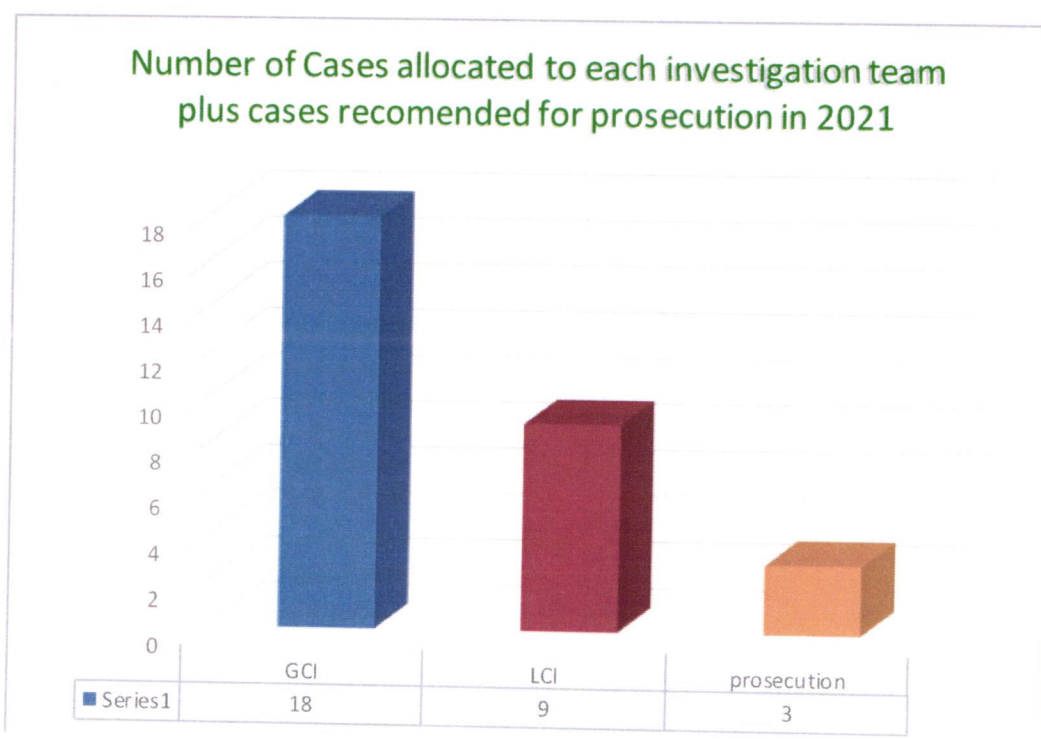




## Case allocations

Out of 30 jurisdictional complaints:

- General Complaint Investigations (GCI) investigated 18 cases;
- Leadership Code Investigations (LCI) investigated 9 cases; and
- Investigation cases completed and recommended for prosecution made a total of 3



The above bar graph shows that the Ombudsman's Office received more maladministration complaints compared to Leadership Code complaints. This is a result of the clarification of the term "maladministration" made during different awareness program conducted by the Ombudsman and his team with different government agencies throughout the Provinces of the Republic of Vanuatu.

Leadership cases are mostly criminal matters complained of against a leader.

The increase number of complaints against government leaders was also recorded as a result of the Office awareness to Government agencies and through the media.

### Complaints investigated and completed

The Ombudsman's Office also closed a significant number of cases in 2021. The table below shows the number of cases closed throughout the year per Investigation team.

General Complaint Investigation	LEADERSHIP Code Investigation	Legal Team(non-jurisdiction)
13	7	21

The above table shows the total number of cases closed in 2021. Some of this cases are dated back to 2019 and 2020

1. Most complaint cases received were closed by the Legal Team. Reasons for closure:
  - Non jurisdiction,
  - Transferred to appropriate authorities.
2. The General complaint investigations closed 13 cases with complaint having jurisdiction. Out of this figure, 4 of these cases closed resulted in Public Reports. The others were resolved during the investigations.
3. Once the public Report (PR) was published, the case files were closed. Two public reports were published against a leader for breaching Ombudsman Act and Maritime Regulatory Act and Leadership code Act.

### Annual Return

The Ombudsman has currently the legislative mandate to receive, keep records and assess the annual returns of those defined by the Article 67 of the Constitution, Section 5 of the Leadership Code Act and other laws of the Republic of Vanuatu as leaders.

The Leadership Code Act [CAP.240] was enacted by Parliament in 1998 requiring leaders to file annual returns declaring certain properties, including loans and other



liabilities they have or owe, to the prescribed authority. That prescribed authority was the Clerk of the National Parliament. He administered and enforced the provisions of the annual returns under the Leadership Code Act (Act).

In June 2020, the Parliament of Vanuatu passed the Leadership Code (Amendment) Act No. 1 of 2020. That Amendment transferred to the Ombudsman of Vanuatu the sole duty to ensure that all Leaders file their annual returns in accordance with the requirements of the Act. The Clerk of the National Parliament ceased to perform that function as from the 10<sup>th</sup> of July 2020.

This is the first time in the history of this Constitutional Office to assume this huge responsibility.

During the enforcement process, the Office of the Ombudsman identified some issues that needs urgent attention. Some will require amendments to be made to the current provisions of the Act to enhance the administration and enforcement of annual returns of leaders.

## **ISSUES AND CHALLENGES**

### **No assistance to perform new function**

The transfer of the powers and functions relating to the administration and enforcement of annual returns of leaders to the Ombudsman was done hastily. No proper plans was put in place to assist the Ombudsman to perform this new function. This include no assistance in monetary terms. The Ombudsman assigned to one of his investigators the responsibility to be in charge of annual returns. This decreased the number of investigators to investigate complaints. The new initiatives taken included –

- (a) an intensive awareness exercise to all leaders on their obligation to file annual returns and to do so within the time set by the Act; and
- (b) search and determine the leaders prescribed in the Constitution, the Leadership Code Act, and other Acts of Parliament; and
- (c) provide assistance to leaders to fill in their annual returns; and
- (d) advise leaders on the dateline that they must meet to file their annual returns on time; and
- (e) continuously seek advice and assistance from senior members of the Ombudsman's Office including the Ombudsman, and the Office of the Attorney General, employers of leaders and others to identify the leaders; and
- (f) Service of notices on all leaders who failed to file their annual returns under section 33 (a) of the Act. This was a difficult exercise as there is no

existing central registry to obtain addresses, including phone numbers of leaders to enhance the service of notices; and

- (g) on receipt of annual returns of leaders, assist the Ombudsman determine the veracity of information submitted by each leader; and
- (h) identify leaders who failed to file their annual returns on time; and
- (i) identify leaders who falsified information about their properties, liabilities and new transactions undertaken; and
- (j) collect evidences of breaches of the annual returns with assistance of the legal team in preparation for the prosecution of such leaders; and
- (k) appear in court to testify on behalf of the Ombudsman.

### **Number of leaders in Office Registry**

These are some of the statistics not necessarily based on the Official Gazette publication dated 17<sup>th</sup> March 2021 on the number of leaders in this country:

1. The total number of leaders recorded in the Office registry is 723.
2. 584 Leaders filed their annual returns for 2020.
3. 79 Leaders failed to file their annual returns for 2020 (76 actual persons).
4. 663 is the total number of positions of Leaders that includes those who filed and those who failed to file their annual returns for 2020.
5. It must be noted that there are more positions of leaders than the actual number of persons appointed to the positions. This has come about mainly because of the fact that one leader is appointed to more than one leadership position. Two good examples are those of Directors of Government Departments and Director Generals of Ministries.

#### **i) Filing of annual return within 2 months of becoming a Leader**

Section 31 (2) (a) requires a leader to file his or her “annual return...to the Ombudsman within two months of becoming a leader”. The following scenarios can happen in that period –

- (a) a leader acquires no new assets, no new liabilities and do not enter into any new transactions; or
- (b) a leader acquires a new asset, etc.

First, what does the leader in scenario (a) report on?

Second, the leader in scenario (b) will report on the new asset acquired in those two months. However, if that is the intention that leader will end up reporting that asset acquired then again when the leader submits his or her annual returns by 1 March the following year. Is this the desired intention?

Third, there is no statement on the value threshold of a property acquired to attract the requirement to file information on that property under section 31 as a whole.

The intention behind section 31 (a) is not clear. Some leaders have questioned the intention or purpose of section 31 (a).

Finally, the requirement to file annual returns within two months of being appointed as a leader is contrary to the rule in Part 4 of the Act. That rule requires leaders to file their annual returns by March of the New Year for the previous year. In other words, they report on assets acquired (if any), and liabilities incurred (if any), for the previous year. Not for the year yet to be completed.

On the 1<sup>st</sup> of November 2021, the Acting Chief Magistrate of the Magistrate Court, Ms Anna Laloyer committed the PI Case NO.3089 of 2021 to the Supreme Court of Vanuatu for plea.

These 11 persons classified as leaders under the leadership code Act entered their pleas on information of 1 count for failing to file annual return contrary to section 33 of the leadership code Act [CAP 24]

## **Monitoring and enforcement of three official language**

In 2021, the office of the Ombudsman produce a special report to Parliament concerning the observance of Multilingualism.

The year 2021 was a very busy year for the Office of the Ombudsman in terms of investigation of high profile cases that made news headlines and the responsibility to carry out duties related to annual returns for leaders; a first time in the history of the Office since its establishment.

However, in terms of Language Rights the Ombudsman did not receive any complaints during 2021. The Ombudsman viewed this as a good indication that government agencies are complying with the provisions of Language Rights in their services to the public.

In 2021, the Ombudsman focus more on an online survey regarding the use of the 3 official languages in the public services.

## ONLINE SURVEY ON THE USE OF THE THREE OFFICIAL LANGUAGES

As part of the investigation of Language Rights, the Office of the Ombudsman conducted an online survey on the use of the three official languages of Vanuatu within the Government agencies. The targeted group was all public servants that includes officers of all ministries and departments of government, all statutory bodies, local government authorities and other government entities. The purpose of the survey is -

- a) to get feedback from them on the use of the three (3) official languages of Vanuatu in their respective workplaces;
- b) to show how the language used regularly by them can have an impact on the language used in their publications in their respective offices;
- c) to indicate why Government agencies do not comply with language rights provisions; and
- d) to indicate why many Government agencies do not use the services of the Language Services Department to translate their publications.

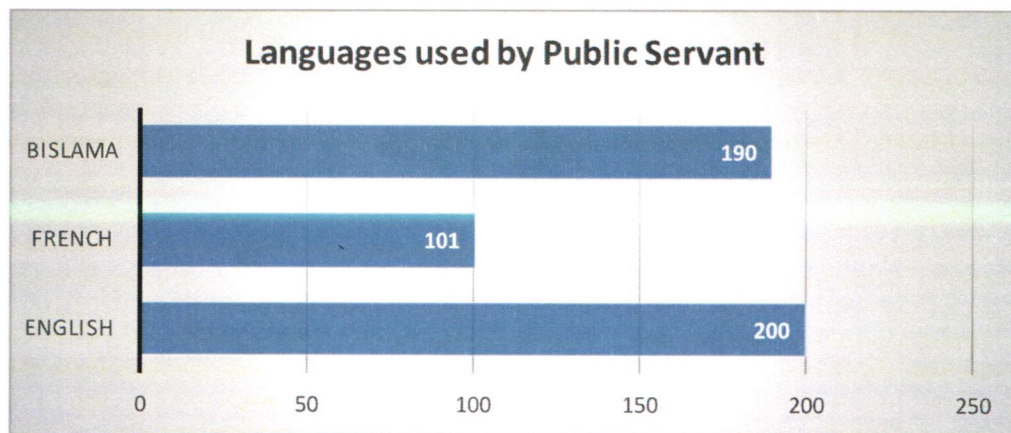
Like the 2020 survey, the 2021 survey was also conducted online and was available on every networks. Two hundred and one (201) person participated in the survey. This is still a very small number compared to the number of employees in the public service and other Government institutions covered by this exercise. The Office of the Ombudsman sent a survey message to the public through mobile phones, but the participation was poor. The survey questions required participants to answer questions related to these three main areas:

- (a) The language used at the workplace;
- (b) Documents used in the workplace; and
- (c) The Language Rights provisions.

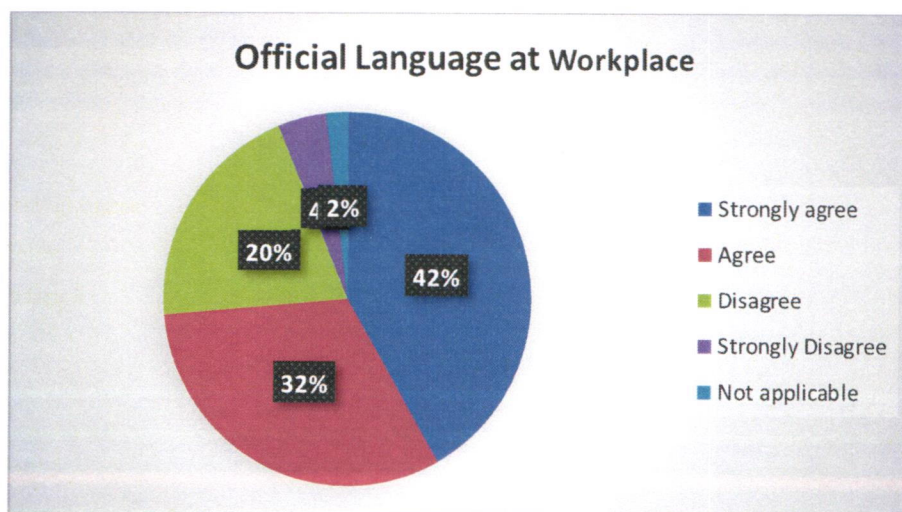
The following information are extracted from the feedbacks of the online survey and it shows important data in relation to the use of the three official languages in the public services that the Ombudsman believe is important to highlight. It includes graphs and charts that illustrate different important information:

*The graph below shows the use of the three official languages by public servants. The languages most understand and used frequently are English and Bislama, while French is the least used.*



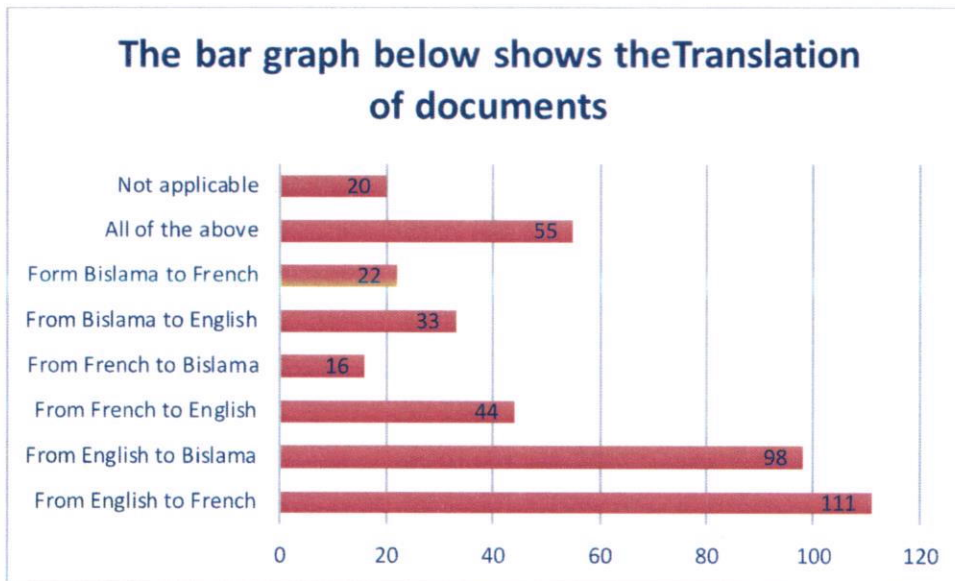


*The pie chart below shows that most people strongly agree that the material and the working tools available within the framework of their duty, including the software and other computerized tools are available in the official language of their choice.*



**The documents used at work place**

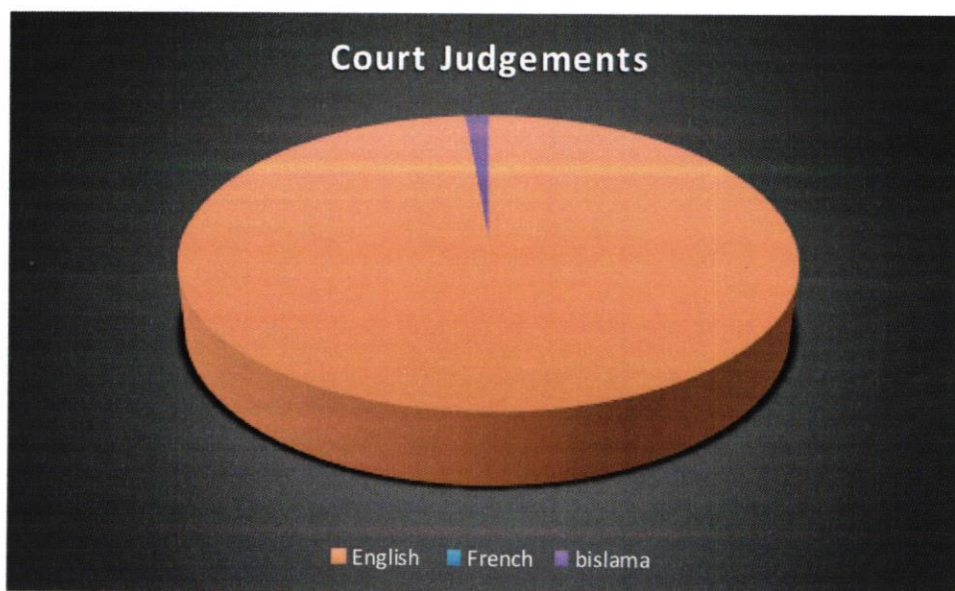
**The Translation of official documents**



*In general, most documents are written in English and then translated into French and Bislama.*

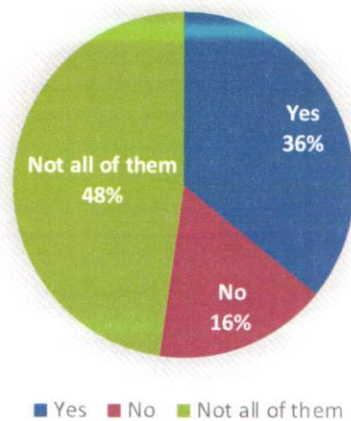
### Court judgements documents

*The pie chat below shows that Most if not all the court decision documents are written in English. There is rarely a court judgement in the French language.*



### Translation of official documents in all Official Languages

The pie chart shows Translation in all official languages

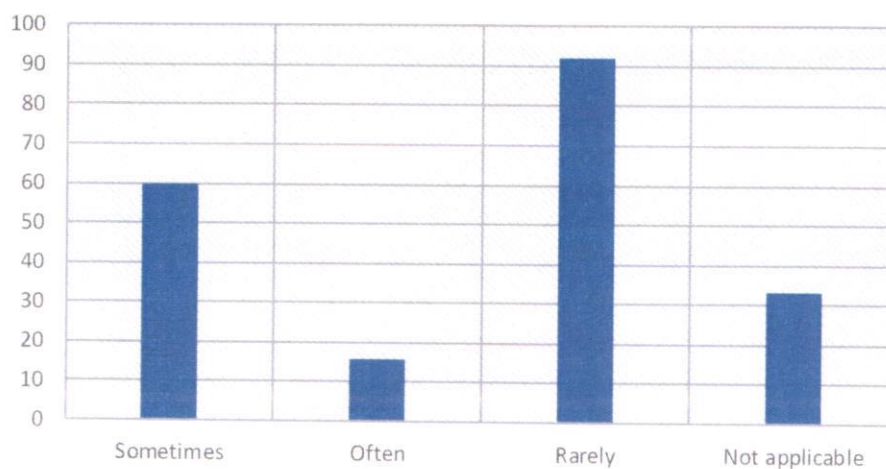


As shown above, many participants agree that not all of the official documents are translated in either one or two official languages.

### Provision on Language Rights

The bar graph below shows that most participants have rarely received in their respective organisation complaints in the past about the use of languages in their publication.

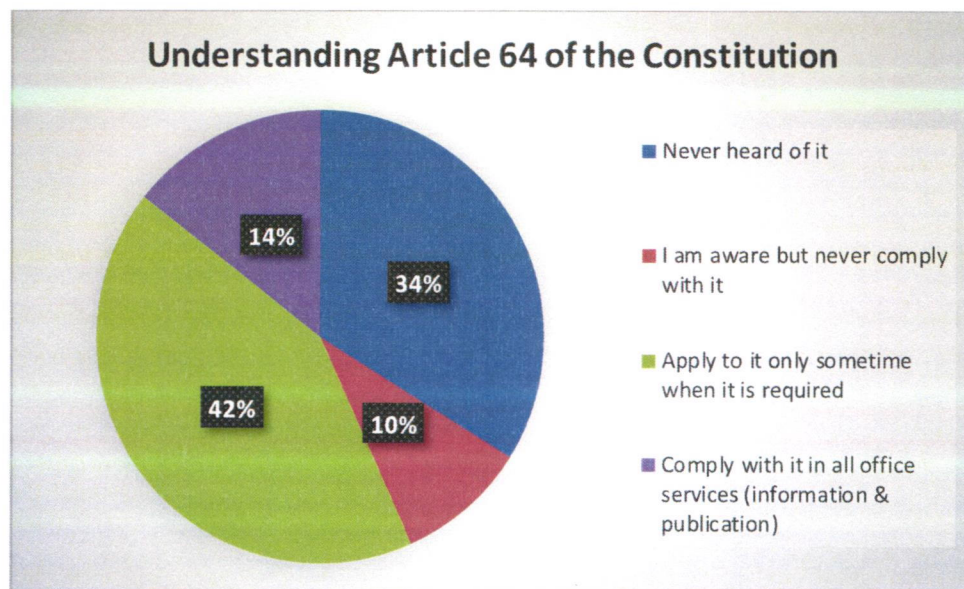
Complaints received



### Understanding Provision of Language Rights

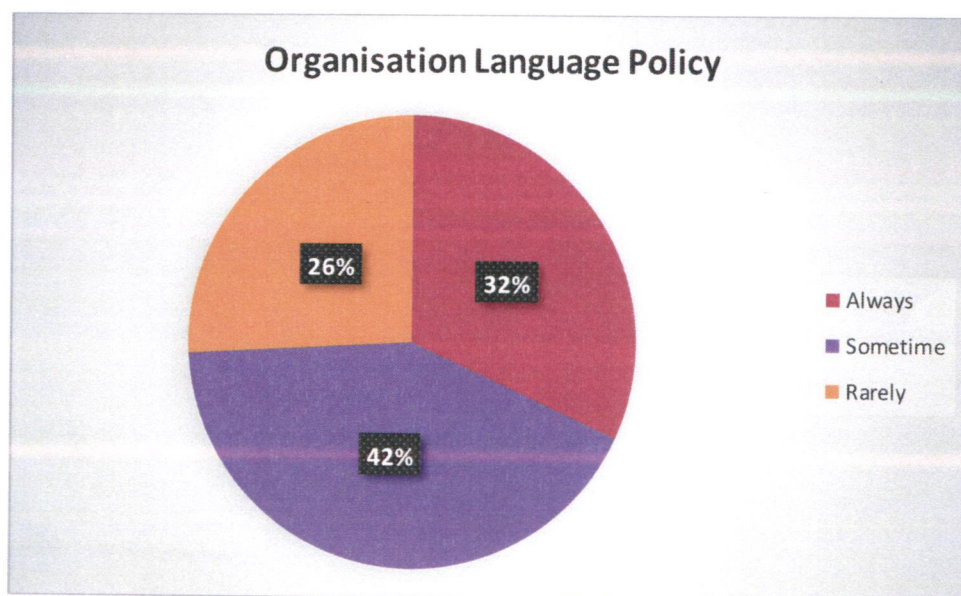


*The pie chart below shows that most participants never heard of the provisions of language rights as provided by the Constitution Article 64*



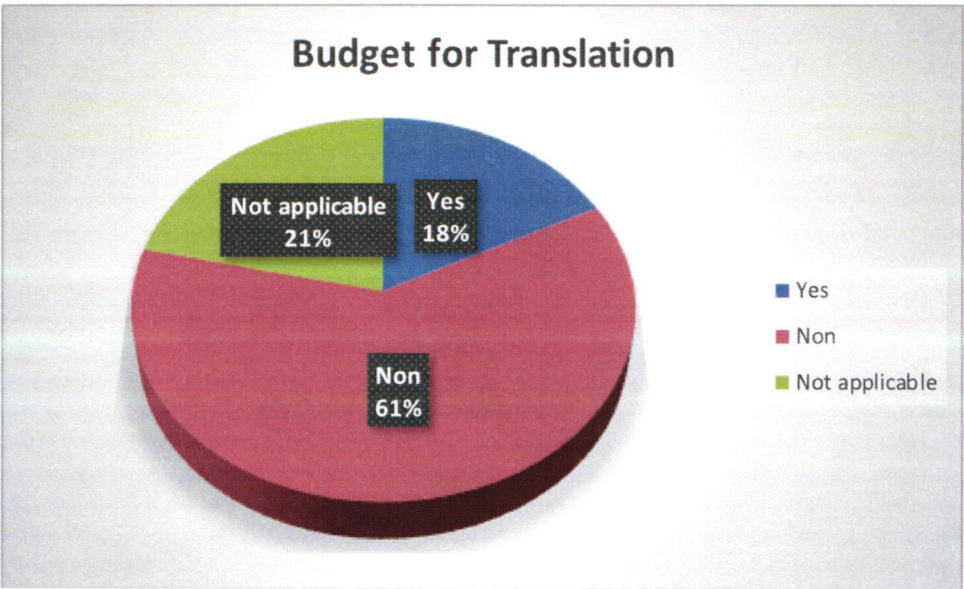
### Organisation Policy on the usage of official language

*The pie chart below shows that most organisations' internal regulations and policies are not always in line with Article 64 of the Constitution.*



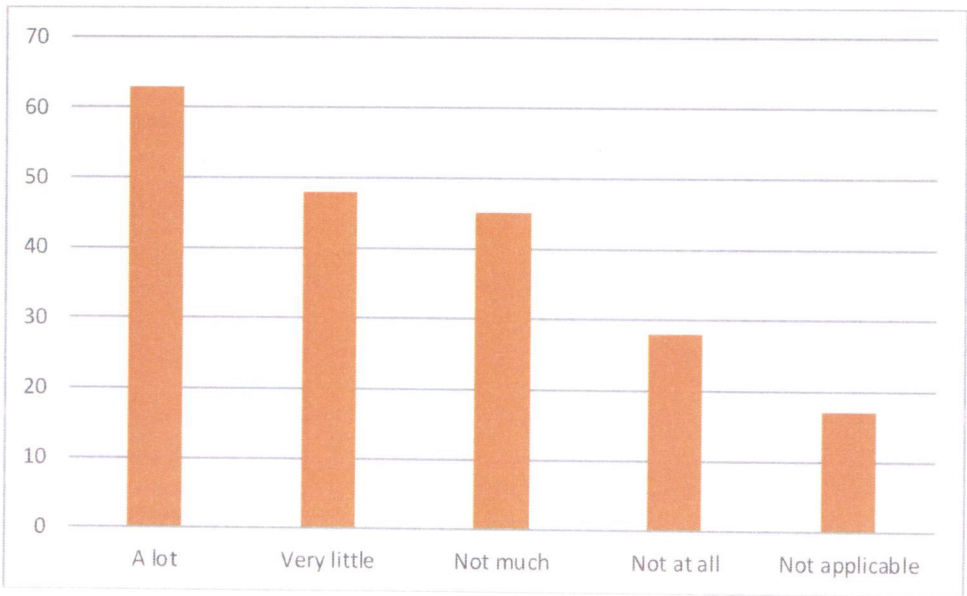
**Organization’s Budget for Translation**

*This pie chart below shows that most organisations do not have a specific budget for translation.*



**Changes made in terms of Uses of Language Rights**

*The graph above shows that most participants have seen changes made in their organisation in terms of uses of language rights*





**Ombudsman's recommendations on the 2021 special report to the Parliament on the Observance of Multilingualism or Language Rights are as follows;**

- 1.1** That the Prime Minister, Ministers and members of the Parliament are urged to act on the recommendations mentioned in the Ombudsman's report on language rights of 2015, 2016, 2017 and 2018;
- 1.2** That all administrative agencies of the Republic of Vanuatu, including the Parliamentary Services, the Judiciary, Ministries, Departments, Statutory Bodies and other agencies including the Government electronic media, to fully comply with the requirements of Article 64(1) of the Constitution;
- 1.3** The Office of the Prime Minister as the Ministry responsible for the Language Services Department and the effectiveness of its operation, should allocate and increase the budget of the Language Service Department to recruit more staff and purchase more material support it requires to provide quality and timely language services to all Government agencies of the Republic of Vanuatu; and
- 1.4** That each Government agencies amend or revise its policies to meet the Requirement of Article 64(1) of the Constitution and not continue with the practices and "custom of doing things" which has been the norm in most public institutions. Furthermore, amendments should be made to the Public Service Commission Application form and particularly in the "recruitment process checklist" to emphasise and implement the use of the three official languages in publications by Government agencies.
- 1.5** That all Government institutions and agencies' banners and websites, be in all three official languages to allow citizens the choice, to read and understand in the language that suits them. The banners and websites are considered as services and should be made available in accordance with Article 64 (1) of the Constitution.
- 1.6** That the alert messages that come from the Government agencies through Mobile phones must be also in three official languages. The alert messages are very important when it comes to preventing Vanuatu citizens from natural disasters, sickness and other important matters related to Government services. Therefore, it is very important to deliver those messages in all three official languages.

## **PUBLICATIONS**

The Ombudsman's Office released four (4) public reports in 2021.



1. Public Report on the establishment and management of the Members Education Support scheme (MESS) by the Vanuatu National Provident Fund and the Ministry of Education and Training
2. Public Report on the appointment of Melinda Ken by the Public Service Commission to a position of Compliance/Licensing Officer at the Department of Customs and Inland Revenue
3. Public Report on the Suspension of the Maritime Regulator by Hon. Jay Ngwele, Minister of Infrastructure and Public Utilities
4. Public Report on the breach of Ombudsman Act by Minister of Climate Change, Hon. Bruno Leingkone

These reports are accessible through this link:

<https://ombudsman.gov.vu/index.php/resources/publications/public-reports>

## **DEFECTIVE LAWS**

Defective law refers to:

1. A gap in an existing piece of law failing to address an arising situation or circumstances; and
2. One that fails to comply with relevant procedural or jurisdictional requirement therefore rendered it legally invalid as a result.

Instances where a law is defective arises in two forms;

- (a) caused by the conduct of a leader or a government agency, a conduct that is accepted as breaches of the law making it defective, and
- (b) a piece of legislation that enacted for a purpose but fails to fully address its purpose. It also applies to policies.

The complaints received in 2021, investigated and reported by the Ombudsman identified that:

### **VNPF ACT/EDUCATION ACT**

1. The Government Act was made defective by human error, during the establishment of MESS scheme between the Minister for Education and the General Manager, VNPF. It was enacted for such purpose however with the

negotiations and administration of the MESS scheme, it was not considered rendering the decision made to be unlawful.

2. No internal rules in the VNPF Act, by way regulations to guide the administration of MESS between the Ministry of Education & Training and the VNPF.

#### PUBLIC SERVICE ACT, [CAP. 260]

1. There are in place the Public Services Act and the Public Services Staff Manual laying down the recruitment procedures. They were not followed by its administrators causing a defect in the administration of the law. Another human error.

#### MARITIME SECTOR REGULATORY ACT NO 26 OF 2016

1. The Parliament of Vanuatu enacted a provision for the Minister to rely on if he has to suspend an employee. In this case the law became defective when reversed by taking an action to suspend before appointing an independent inquiry to investigate. The law was made defective by human action.

## LEGAL SERVICES

### Litigations

1. **The Ombudsman of the Republic of Vanuatu v Office of the Head of State** (VUSC 249); Judicial Review 2069 of 2021

The Application relates to the exercise of Article 38 of the Constitution to pardon the convictions of Joe Natuman, Serge Vohor and Charlote Salwai Tabimasmamas:

The Ombudsman of the Republic of Vanuatu made an Urgent Constitutional Application to the Supreme Court, in accordance with Article 53 (1) of the Constitution alleging the breaches of the Constitution affecting his position as the Ombudsman, duly appointed as the Ombudsman under Article 61 of the Constitution, and his functions under Article 62 of the same and the Ombudsman Act, [Cap. 252].

One of the core Constitutional functions of the Ombudsman mandated, by the Ombudsman Act, [Cap. 252], is to ensure there is good Governances in the administrations of the Government.

The fundamental basis of the Urgent Constitutional Application is the exercise of the power of the President, exercised under Article 38 of the Constitution to pardon the sentence and conviction of citizens. The purpose of the Application filed by the Ombudsman was to ensure there is strict legal guidelines as to the exercise to pardon. Essentially, this is a power, which should be exercised with great care, and never based on friends or political affiliations. Because it is a power which goes to the heart of the rule of law.



The Supreme Court struck out the Urgent Constitutional Application

□ <https://courts.gov.vu/court-activity/judgments/supreme-court/484507-the-ombudsman-of-the-republic-of-vanuatu-v-office-of-the-head-of-state>

## **2. Letlet August v The Ombudsman (VUSC 249); Judicial Review 2069 of 2021**

The claim concerns the exercise of powers under the Constitution, the Leadership Code Act, [Cap. 242] and the Ombudsman Act, [Cap. 252].

On 5 June 2021, the Ombudsman investigators and a member of the Vanuatu Police Force conducted a search issued by the Magistrates Court, at DG August premises, the Ministry of Finance & Economic Management and the VNPF. The Ombudsman was exercising the power invested on it by the Article 62 (1) (c) of the Constitution, ss20, and 24 of the Ombudsman Act. DG Letlet challenged the search conducted in the Supreme Court in the first proceeding where the judgement went in the Ombudsman's favour. DG Letlet appealed the Supreme Court Judgement to the Court of Appeal. He appealed challenging the technicality of s24 of the Ombudsman Act, claiming that the Ombudsman failed to serve him notice, informing him before hand of the inquiry prior to conducting it that morning. He, through his legal counsel argued firstly that since s24 of the Ombudsman Act was not followed, the fruits of the search were unlawful, and secondly that, the search warrant was issued in the wrong Court (Magistrates than the Supreme Court) the search conducted was unlawful. The Court of appeal found in favour of Letlet.

August v Ombudsman

□ <https://courts.gov.vu/court-activity/judgments/supreme-court/467649-august-v-ombudsman>

## **3. Letlet August v Ombudsman Court of Appeal (VUCA 59); Civil Appeal Case 3241 of 2021.**

The issue before the Court of Appeal were; the technicality of s24 and the issue of jurisdiction where the search warrant was issued. Several other surrounding issues were raised and discussed including claims that the action of the Ombudsman was not done in good faith hence ought to be held liable for its actions. The CoA resolved in DG Letlet's favour on both issues and referred the matter back to the Supreme Court to determine the damages in full. The claim is now before the Supreme Court to determine the veracity of the claim.

August v Ombudsman of the Republic of Vanuatu

□ <https://courts.gov.vu/court-activity/judgments/supreme-court/479959-august-v-ombudsman-of-the-republic-of-vanuatu>

## **4. Public Prosecutor v Jimmy lawia & Ors Crim. Case N0 3659 of 2021.**

This is a matter of failure to file an Annual Return on the part of the leaders defined by the Constitution and the Leadership Code Act.

Section 31 of the Leadership Code Act calls for leaders to file each year, on 1<sup>st</sup> March an Annual Return to the Ombudsman. Section 33 demands that leaders who fail to file will face prosecutions.

On 1 March 2021, between 80 and 90 leaders failed to file their Annual Returns for the year 2020. Out of that number, 14 were indicted and charged. A Preliminary Inquiry was conducted in November last year and the matter was committed to the Supreme Court for plea. The first 14 of the total number are listed to enter plea on the 22<sup>nd</sup> of June this year.

### **Amendments**

No amendments to the Ombudsman administered legislations were made in 2021. Three attempts were made in the first second and third seating of that year. However, the Bill for the intended amendments failed to reach Parliament.

### **Regulations**

No regulations under the Ombudsman Act were made during the year.

### **CONCLUSION**

May I take this opportunity to thank all who assisted the Ombudsman and his team in carrying out its work this year. I look forward to further cooperation in the coming year.

End.