



**Office of the Ombudsman  
Bureau du Médiateur  
Ofis blong Ombudsman**



**SPECIAL REPORT TO PARLIAMENT  
CONCERNING  
THE OBSERVANCE OF MULTILINGUALISM  
2017**

**This document is presented to Parliament by  
the Ombudsman of the Republic of Vanuatu**

The Constitution states that the Ombudsman shall, each year, make a special report to Parliament concerning the observance of multilingualism and the measures likely to ensure its respect.

Date: 10 September 2019

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## 1.0 INTRODUCTION

The Ombudsman makes this Special Report to Parliament on the observance of multilingualism in 2017 as required by **Article 64(3)** of the Constitution which states:

*“The Ombudsman shall, each year, make a special report to Parliament concerning the observance of multilingualism and the measures likely to ensure its respect.”*

The purpose of this report is –

- (a) to provide a general view on how the administration of the Republic of Vanuatu utilised the three official languages, French, English and Bislama in delivering services or communicate to the general public as well as within government agencies in 2017; and
- (b) to identify any breaches of the provision of language rights and to provide recommendations in making sure the Vanuatu administration complies with the Constitution.

Language is perhaps the most important and essential form of communication known to man. Our languages including, French, English and Bislama are recognised as part of the national heritage of Vanuatu. Further, language pluralism is a part of our national linguistic identity and it is enshrined in the provisions of **Article 3** of the Constitution which provides:

### **“3. National and official languages**

*(1) The national language of the Republic of Vanuatu is Bislama. The official languages are Bislama, English and French. The principal languages of education are English and French.*

*(2) The Republic of Vanuatu shall protect the different local languages which are part of the national heritage, and may declare one of them as a national language.”*

**Article 64(1)** of the Constitution protects the right of a citizen to receive from “the administration of the Republic of Vanuatu” any services in any of the official languages that he or she uses. It states that “A citizen of Vanuatu may obtain, in the official language that he uses, the services which he may rightfully expect from the administration of the Republic of Vanuatu.”

Furthermore, one of the main functions of the Ombudsman is to investigate any complaints, whether from citizens or on his or her own initiative violations of Language Rights (or Multilingualism) in accordance with **Article 64(2)** of the Constitution which states: “Where a citizen considers that there has been a breach of sub-article (1) he may make a

*complaint to the Ombudsman who shall conduct an enquiry in accordance with Articles 62 and 63”.*

## **2.0 OVERVIEW**

Language is the primary tool for communicating information and knowledge. The ability to use one's language whether in the community or work place will determine the degree of involvement of each individual in one's society. In Vanuatu, language represents not only our National identity but also our cultural, island or village or tribal identity. With its diverse multiple cultures, Vanuatu has more than 100 local languages spoken in different islands of the country. This National heritage should always be protected and kept alive for the next generation.

- 2.1** Very often the use of the English language has been the dominant language in official documents within the Public Services as well as in the Private sector. In recent years, the increase in the use of the French language has been due to the increase of Francophones in the public service. However, in the private businesses and social sectors the French language continues to be used widely.

Because of its lack of technical terms and undeveloped and inconsistent vocabulary and grammar, Bislama is less used in printed official Government documents as well as printed material in the private sector. The lack of proper vocabulary and grammar in Bislama makes the translation of French and English official documents into Bislama very difficult and often produces inexact or inappropriate results. For example it is very difficult, but not impossible, to translate the laws of Vanuatu into Bislama. However, in most government ministries and departments, Bislama is commonly spoken as the language of communication.

- 2.2** This year 2017, the Office of the Ombudsman continues with the strict approach in dealing with cases that are violating provisions of language rights provided in the Constitution. As mentioned in our two previous special reports, the position of the Senior Language Rights Investigator/Officer had just been filled in June 2015 which tried to look at new ways to monitor very closely all departments and agencies of the Government in their usage of the three official languages. This year the Ombudsman continues to handle outstanding cases of last year [refer to paragraph 4.1 for more details] which has a high number of cases recorded since 2008.

- 2.3** The investigation of breach of language rights is quite difficult as the office does not have a full team of language rights investigators who can work effectively to ensure that one of the important roles of the Ombudsman is realized, that is to protect and encourage the use of the three official languages in the Public Service. The office hopes to recruit more language rights investigators in future in continuing to reaffirm his

commitment in protecting and promoting the use of Vanuatu's official languages.

- 2.4** This report is a result of the Ombudsman's investigation of language rights complaints and the observations he has made during the course of the year 2017.

### **3.0 INVESTIGATIONS**

This year we received only one case by email against the organising committee of the VAN2017 in regards to the publicities of the games being made only in English language without the two other linguistic versions. We still continue to work with outstanding cases of last year 2016 which still many government agencies failed to observe and respect the requirement of Article 64(1) of the Constitution (refer to requirements of Article 64(1) of the Constitution paragraph **4.3.8**). The Ombudsman's office does encourage members of the public to report any case of breach of language rights [refer to appendix **A** on how to lodge a complaint]. The Ombudsman's cases that deal with breaches of language rights are mostly started on own motion but the Ombudsman believes that many complaints should be reported by members of the public to ensure that all government agencies treat all people equally.

#### **3.1 Working cases/current investigations**

The Ombudsman's Office has continued to work closely this year with every single government ministries agency to encourage and protect the use of the three official languages in the Public Services. The Ombudsman will not reveal details of the government agencies which are subject to its investigation in breaching language rights due to its confidentiality. But it will state that almost every government agencies did not comply with the requirement of Article 64(1) of the Constitution. This comes as a surprise but these agencies have different reasons of non-compliance to the provisions of language rights. Some agencies believed that communicating in English language whether in writing or speaking is a common practice and the two other official language are not important or necessary. It's a practice used in the past and become more and more as standard rules used and accepted by most government agencies. Other agencies explained that it is due to budget constraints and that their offices do not budget for such exercises. While a number of them questioned the legal obligation of Article 64(1) of the Constitution as it gives them the right (discretion) to publish either in one or more languages as they wish.

The Ombudsman Office had formal discussions with some of the government agencies to settle the complaints against them. Some agencies had responded to the Ombudsman's letters of enquiry by

providing reasons for non-compliance and agreed to comply with Article 64(1) in future publications. The investigation of some of these government agencies is still in progress but some of them are in the process of being completed. Some of the above mentioned agencies still failed to comply with the requirement of Article 64(1) of the Constitution even though they assured the Office to comply.

### **3.2 Cases closed/completed investigations**

This year the Language Rights unit completed and closed two case files which had been received and dealt with in 2016 and 2017 apart from those mentioned in paragraph 4.1. There were different reasons for non-compliance by government offices relating to -

- the misinterpretation and requirement of Article 64(1) of the Constitution, and
- financial constraints in terms of costs of publishing translations of documents, and
- time factor in terms of carrying out translations of documents.

The following are government agencies that were subject to Ombudsman's enquiry and who took steps to make sure they comply in the future with the provisions of Language Rights:

#### **1. Office of the Government Chief Information Officer:**

The complaint was against Roxane Vichot Event Coordinator of ICT Day Forum in 2016. The latter asked the complainant to produce his Biography in English but he refused and would like to be in French as the language he speak and understand. There was a misunderstanding between the complainant and Roxane that lead to the complaint being lodged. The request by Mrs Vichot is for the convenience of the majority who speak and understand English during that event. The matter has been sorted out by OGCIO. It did assure us that all future publications and issue of this sort will be dealt with in accordance with the requirement of Article 64(1) of the Constitution

#### **2. The Van2017 Organising Committee:**

The above matter was brought to our attention before the beginning of the game and has been mediated between the Ombudsman and the Chairman of VAN2017 organising committee Mr Mark Stafford. The Ombudsman was satisfied with the assurance that the VAN2017 uses all 3 languages in its banners, billboards, and booklets and there will be no more problems regarding the use of the 3 official languages from there on.

The Ombudsman further kindly asked their office through the chairman of the organising committee to redistribute and rearrange the sign billboards and the banners in order that messages displayed are in the three official language taking into consideration the limited

time before the opening of the game and the high cost of reprinting the adverts.

However, the Ombudsman noticed that still many of the banners and billboards, especially at Korman venue are only in English without French and Bislama linguistic version. Such action constitute a breach of Article 64(1) of the Constitution of the Republic of Vanuatu which provided for the "rights of a citizen to services in own language".

### **3.3 Findings**

Following the advice and assistance of the Senior Language Rights Officer the Ombudsman makes the following findings concerning the use of the official languages in the public administration of the Republic of Vanuatu in 2017 [some of the findings could be referred to 4.2]. These findings are the same findings mentioned in the two previous reports as they all reflect issues encountered by government agencies in their services delivery. The Ombudsman also likes to acknowledge the improvement of some agencies particularly OGCI to provide services [and encourage others] in the three official languages since 2015.

#### **3.3.1 Language used in documents**

In terms of writing official projects, documents and procedures, generally the English language is mostly used. Important documents are translated into French however it is rare that Government documents are translated into Bislama.

#### **3.3.2 Documents for public scrutiny**

Only when an official document is produced for public scrutiny, such as job advertisements or public notices will they be translated to either French or English and in some cases Bislama.

#### **3.3.3 Lengthy documents**

In cases where the public document is very lengthy, it becomes exceptional that the document is only written in either English or French, and the need to produce a concurrent translation is considered restrictive and therefore unnecessary. Local judicial decisions and overseas project documents are examples of this.

#### **3.3.4 French language**

The French language is rarely used in correspondence in the public administration of Vanuatu. This may be due to the general dominant use of English in the public administration. It may be also be due to the fact that many Ni-Vanuatu Francophones are bilingual and understand and speak English, whereas many Anglophones do not read, understand or speak French.



### 3.3.5 Financial constraints

Government Ministries and Departments find it financially difficult to translate all their public advertisements, notices, and other official documents, in all three official languages. Lengthy and complicated documents using technical terms are usually in English or French only. The publications of advertisements and other government documents in the local newspapers are also very expensive particular if they are in all three official languages.

### 3.3.6 Language Services Department

Even though the Language Services Department provides translation of all documents into the three official languages, they are often short-staffed and over-loaded to service the entire Public Administration with translation services. Experience has shown that translation delays have prolonged to weeks and months before they are ready for collection.

### 3.3.7 Own translators

Many institutions of the Government use the expertise of their own staff members to translate short documents that do not need to be forwarded to the Language Services Department. However, this may pose questions of whether such staff members are qualified to do translation services as well as issues of the accuracy of translated documents.

### 3.3.8 Interpretation and Requirements of Article 64(1)

In investigations on breaches of languages rights, the Senior Language Rights Officer has come to notice that some government agencies and statutory bodies have a different legal interpretation of the requirements of Article 64(1) of the Constitution. The Language Rights Officer did provide some explanations and interpretation of the legal requirement of Article 64(1) in meetings and by letters to government agencies to clarify these doubts however the agencies continued to follow their own interpretation of Article 64(1). In fact, some government agencies still continue to overlook the requirements of Language rights even though they have assured that future publication would be made in all official languages. The Ombudsman Office provided the notice (issued on the 24<sup>th</sup> of May 2016 in the Government Network) of the requirements and interpretation of Article 64(1) of the Constitution in the **Appendix**. This is a reminder that was mentioned in 2016 reports and which the Ombudsman thinks it is important to point out.

## **4.0 RECOMMENDATIONS**

From the findings mentioned in paragraph 4.3 above the Ombudsman makes the following recommendations. The Ombudsman Office kindly ask the Prime Minister and Parliamentarians to look at these recommendations as these are recommendations mentioned in the



Ombudsman 2015 and 2016 reports which there were no actions taken to address the above issues:

- 4.1 That all agencies of the administration of the Republic of Vanuatu including the Parliamentary services, the Judiciary, Ministries, Departments, statutory bodies and government companies, including the government electronic media, must respectively follow the requirements of Article 64(1) of the Constitution however, difficult or costly that may be to issue every document, or provide all oral or electronic verbal communication in all 3 official languages, if not concurrently then within a reasonable time.
- 4.2 That the Office of the Prime Minister as the Ministry directly responsible for the Language Services Department and the effectiveness of its operation urgently allocate to that Department as a matter of priority, such budgetary contribution and staff and material support as it requires to provide quality and timely language services to all agencies and institutions of the administration of the Republic of Vanuatu.
- 4.3 That each ministry provide appropriate budgetary support for at least one officer fluent in all the three official languages to be posted in the ministry and or in their respective departments and agencies as a means to helping those ministries, departments and agencies meet the important requirements of Article 64(1) of the Constitution for the benefit of Vanuatu citizens and members of the public.
- 4.4 That it is the duty and responsibility of heads of departments and agencies (Directors General, Directors, CEOs, Managers and Supervisors) to direct and ensure that all their publications and written communications are made in the three official languages, as they will be held accountable for any oversight or negligence.
- 4.5 That all the service commissions of the Vanuatu administration, namely the Public Service Commission, the Judicial Service Commission, the Police Service Commission, and the Teaching Service Commission, as head employment institutions of all Ministries, departments and agencies of the administration of the Republic of Vanuatu should notify all departments and agencies under their respective authorities to strictly comply with the requirement of Article 64(1) of the Constitution.

## 5.0 CONCLUSION



This special report highlights the fact that there was and still unequal usage of the three official languages in the Public Services particularly in terms of services delivery.

The report help strengthen the right of access to information for all citizen whether in the Public Service or in different community in the society. It also encourages the use of official languages that are rarely used in the public sector as a linguistic tool to get information.

As the goal of this report, recommendations were proposed by the Ombudsman in order to address issued raised, as well as the availability of solutions to address, facilitate, encourage and protect usage of official languages in this diverse linguistic and cultural settings which is Vanuatu.

A Sustainable Development Goal in terms of equal and fair usage of Multilingualism could be reached if recommendations above are met and are based on linguistic diversity and multilingualism as essential contributions to the national development. They are indeed ways put in place for promoting intercultural communication and living together harmoniously.

The requirements under Article 64(1) of the Constitution are very clear as it requires that all services from the administration of the Republic of Vanuatu must be made in all three official languages. This includes written or spoken communication, including communication by the government electronic media.



**Hamlison Bulu**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

## APPENDIX A

### Who Can Make a Complaint to the Ombudsman Office

Any person can make a complaint to the Ombudsman against any:

- government ministry
- government department or agency
- public servant
- leader in the government including provincial councils, municipalities & statutory bodies and their Board of Directors
- The Ombudsman can also commence an investigation on his/her own initiative

### How to Lodge a Complaint with the Ombudsman Office

A complaint can be lodged with the Ombudsman Office by completing a complaint form a copy of which can be downloaded from this website, or through telephone, email, in person or anonymous / own initiative.

### How does the Ombudsman Deal with Complaints

The Ombudsman will provide an opportunity for all parties to respond to the allegations made against them and will attempt to resolve the complaint by mediating between parties in any complaint. Should the complaint cannot be resolved then the Ombudsman will issue a preliminary report with recommendations on how to resolve the issues and a public report will be issued after.

### What Happens after an Investigation?

For maladministration issues, an attempt is made to resolve the issue and if the matter cannot be resolved, a public report will be issued. For Leadership Code Issues, a public report is issued with recommendations for the Public Prosecutor to prosecute. If the public prosecutor feels that the evidence contained in the public report is not sufficient to conduct any proceedings against a Leader or persons involved in a leadership code case then the Public Prosecutor is required to direct the Commissioner of Police to conduct an investigation against the said leaders or persons. Police must investigate within 60 days and forward evidence to the Public Prosecutor and the public prosecutor is to decide within 3 months where there are sufficient grounds to prosecute.

### What can't the Ombudsman Do?

The Ombudsman can't investigate the President or members of the Judiciary. The Ombudsman cannot enquire into a matter previously investigated by the Ombudsman, the reasons why a recommendation by the Ombudsman was not followed, the action taken by a leader or person in charge of a government agency to give effect to a recommendation of the Ombudsman.

### How can you assist the work of the Ombudsman?

You can inform your friends and families about the work of the Ombudsman. You can also lodge complaints to the Ombudsman concerning an issue related to the work of the Government or conduct of leader or the Municipality. You can strive to possess good leadership qualities as leaders of the country