



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



**SPECIAL REPORT TO PARLIAMENT
CONCERNING
THE OBSERVANCE OF MULTILINGUALISM
2015**

**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: 28th November 2016

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1.0 Introduction

The Ombudsman makes this Special Report To Parliament Concerning The Observance Of Multilingualism 2015 as required by **Article 64(3)** of the Constitution.

No special report concerning the observance of multilingualism was made in the years from 2012 to 2014 to Parliament because there was no Language Rights Officer in post in the Office of the Ombudsman at that time.

The purpose and objective of language pluralism and national linguistic identity of the Republic of Vanuatu is ensured in the provisions of **Article 3** of the Consitution 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."

1.1 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."*

1.2 Pursuant to Article 64(3) of the Constitution, *"The Ombudsman shall, each year, make a special report to Parliament concerning the observance of multilingualism and the measures likely to ensure its respect."* As one of its function, the Ombudsman is responsible to investigate any complaints, whether from citizens or on his or her own initiative regarding breaches of Language Rights (or Multilingualism) in accordance with **Article 64(2)** of the Constitution which states that: *"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 fundamental way of communication as it contributes to the unity, education and the development of a society. In Vanuatu, language represents not only our National identity but also our island or local village identity. With its diverse multiple languages, Vanuatu has

more than 100 local languages spoken in different islands of the country. This report will look at only the usage of the three (3) languages, Bislama, English, and French, declared to be the official languages of the Republic of Vanuatu in Article 3(1) of the Constitution.

- 2.1 With its colonial history, Vanuatu adopted two foreign languages, English from the British administration, English speaking missionaries and English speaking schools, and the French language from the French government, the French speaking mission and French speaking schools. These two (2) languages are the principal languages of education throughout Vanuatu at the present time.

- 2.1.1 Bislama, the national language has been recently mentioned to be used with local vernacular as the language of teaching at kindergarten and pre-school level most likely in urban areas up to grade 3. The Ministry of Education 2012 Vanuatu National Language Policy at page 2 says:

"2.1 Language of Instruction

Schools and teachers must:

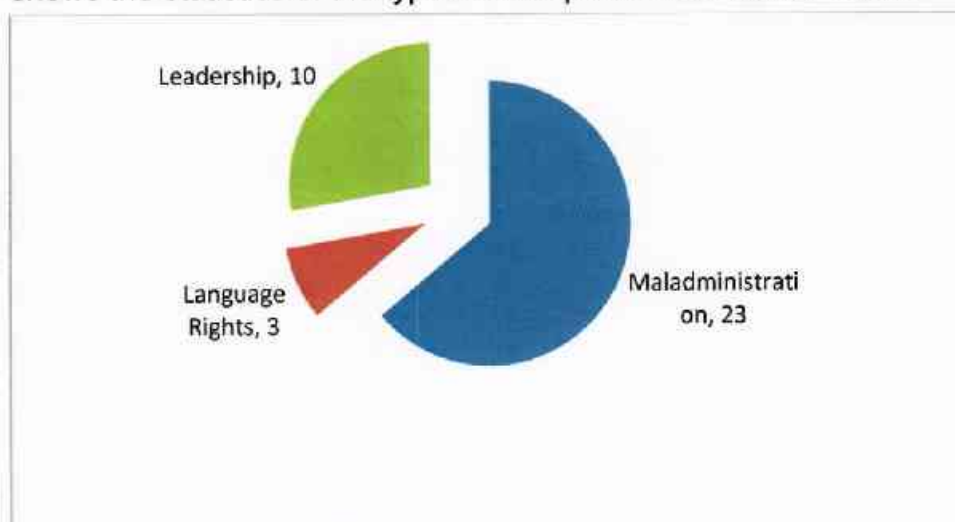
- a) *Teach in either French or English in all schools. However, in the first two years of school, Bislama or a local vernacular can be used while either French or English is introduced by the second semester of Year 3. "*

- 2.1.2 In the Public as well as in the Private sectors, the three official languages are commonly used. Generally the use of the English language has been the dominant language in official documents in the administration of the Republic. 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, business 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 limited range of 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 2015, the investigation of breaches of language rights dealt with four (4) case files covering the eleven (11) agencies mentioned in paragraph 4.1 below. This was due to different reasons. First, the position of the Senior Language Rights Investigator/Officer had just been filled in June 2015. Before the recruitment of the SLRO the Director of Leadership Code Investigations had been responsible for investigating the complaints concerning language rights that were received.

2.2.1 Secondly, the office does not have a full team of 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 – Bislama, English, French - in the Public Service. Budgetary constraints has also been a reason to stop the office from recruiting more personnel for these tasks.

2.2.2 The recruitment of the Senior Language Rights Officer in June 2015 has boosted the Ombudsman Office to continue its mission to protect the use of the official languages. Language rights complaints received by the Ombudsman Office scores the lowest compared to maladministration and leadership code complaints. The graph below shows the statistics of the types of complaints received in 2015:



Types of complaints received by the Ombudsman in 2015

3.0 How to make a complaint

Members of the public can make complaints concerning language rights in different ways.

3.1 The office of the Ombudsman receives complaints from members of the public, government bodies or private bodies concerning breach of language rights through the normal procedure of lodging a complaint, that is:

- Telephone the office on (+678) 27200; or
- Write to the Ombudsman or the Language Rights Officer at Ombudsman Haus, PMB 9081, Rue Pasteur; or
- Email to ombudsman@vanuatu.gov.vu , or
- Visit the Ombudsman office and fill out the complaint form in one of the official languages. A complainant may also speak with the Language Rights Officer or an investigator and provide details with relevant documents concerning his/her complaint.

4.0 Investigations

All language rights complaints in 2015 were started by own motion complaints concerning publications of advertisements made only in either one or two of the official languages. These advertisements published in the Vanuatu media, especially the Vanuatu Daily Post newspaper were placed by government bodies for the general public to see.

4.1 Working cases/current investigations

The following government agencies (in alphabetical order) advertised their vacancies only in either one or two of the official languages, in contravention of Article 64(1) of the Constitution during 2015:

- (i) Department of Correctional Services
- (ii) Department of Energy
- (iii) Department of Forestry
- (iv) Electoral Office & Electoral Commission
- (v) Ministry of Prime Minister
- (vi) Ministry of Trade & Commerce
- (vii) National Bank of Vanuatu
- (viii) Port Vila Municipal Council
- (ix) Telecommunication & Radiocommunications Regulator
- (x) Vanuatu Financial Services Commission, and
- (xi) Vanuatu National Provident Fund

- 4.1.1** The Ombudsman Office had formal discussions with some of the above government agencies such as the VNPF and Ministry of Trade & Commerce to settle the complaints against them. The other agencies had responded to our letters of enquiry by providing reasons for non-compliance and agreed to comply with Article 64(1) in future advertisements.

4.2 Cases closed/completed investigations

During the year the Language Rights unit completed one case file out of the four case files mentioned in paragraph 2.2 above. The completed case file involved the Port Vila Municipal Council, the Vanuatu Financial Service Commission and the Vanuatu National Provident Fund. Even though, the Ombudsman Office agreed with most of them to have future publications of advertisements translated or written in all three official languages, one or two of these government agencies continued to advertise in only one or two official languages. This is probably because

they hold a different interpretation of Article 64(1) of the Constitution or because of the extra financial costs of publishing an advertisement in more than one official language.

4.3 Interpretation of Article 64(1) of the Constitution

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) as mentioned in paragraph 4.2 above.

4.4 Findings

Assisted by 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 2015:

4.4.1 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 Government documents are not usually translated into Bislama.

4.4.2 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.

4.4.3 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.

4.4.4 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 due to the fact that many Ni-Vanuatu Franchophones are bilingual and understand and speak English, whereas many Anglophones do not read, understand or speak French.

4.4.5 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.

4.4.6 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.

4.4.7 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.

4.4.8 Interpretation of Article 64(1)

Some Government institutions still continue to disregard the requirements of Article 64(1) of the Constitution. They say that it is not compulsory to publish advertisements and notices and so on in all three official languages. These institutions expressed the view that Article 64(1) does not mean that every government advertisement must be in the 3 official languages, but that the documents can be advertised in one official language only but the copies of the advertisement in the other 2 official languages can be obtained from the office making the advertisement.

5.0 Recommendations

From the findings mentioned in paragraph 4.4 above the Ombudsman makes the following recommendations:

- 5.1** That all agencies of the administration of the Republic of Vanuatu including the Parliamentary services, the Judiciary, Ministries, Departments, statutory bodies and government companies must respectively follow the requirements of Article 64(1) of the Constitution however difficult or costly that may be to issue every document in all 3 official languages, if not concurrently then within a reasonable time.

- 5.2 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.
- 5.3 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.

6.0 Conclusion

The requirements set 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 and should be made in all three official languages. Yet, it is quite difficult for government agencies to follow this requirement for various reasons – financial and limited translation services for example.

- 6.1 The three official languages have been used very differently in government agencies in the public administration of Vanuatu.
- 6.1.1 Bislama is spoken by all public servants except some overseas technical advisors, but it is not usually used in official documents or reports. The Bislama language needs improvements in its vocabulary and syntax to become a standardised language in the administration of Vanuatu as well as in its use by the people of the country. This is an issue that government must continue to address.
- 6.1.2 The English language is the most used in official documents and reports within the administration of Vanuatu.
- 6.1.3 The French language is also used in some translated documents but its use is more restricted in the public service than the English language. However it is widely used for verbal communication between administrators within the administration.
- 6.2 The Ombudsman's investigation into breaches of language rights in the administration of the Republic of Vanuatu reveals that there is need to encourage the use of all three official languages - Bislama, English and French - in the administration of the Republic of Vanuatu at all levels.

- 6.3 The Ombudsman with the assistance of the Language Rights Officer / Language Rights unit in the Ombudsman Office puts forward the above findings and recommendations to enhance the observance of Multilingualism in the administration of the Republic of Vanuatu and in our country. Language pluralism is our national linguistic identity according to the Constitution. We must protect it and develop it.



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