



**OFIS BLONG OMBUDSMAN
OFFICE OF THE OMBUDSMAN
BUREAU DU MEDiateUR**

SEVENTEENTH ANNUAL

REPORT

2014

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1. OMBUDSMAN MESSAGE

I hereby present the 2014 Ombudsman Annual General Report to Parliament in accordance with Constitution Article 63(5) and Ombudsman Act [CAP.252] section 35(1). I apologize for its late forwarding.

The year 2014 for the Ombudsman was marked by 3 highlights including -

- Launching of new premises at Rue Pasteur in Vila central business district as 'Ombudsman Haus' endorsed by the Council of Ministers under Prime Minister Joe Natuman Yahkowaie after full refurbishment funded by Stretem Rod Blong Jastis program,
- Marking of the 20th anniversary of the establishment of the Office, and carrying out activities including an awareness programme to the public, government agencies and secondary schools as part of the anniversary events,
- Completing an in-house review of 3 previous reviews (Wiltshire report 2001, McDowel report 2002, Review Committee report 2004) on the work and legislation of the Ombudsman, and requesting the Vanuatu Law Commission (VLC) on September 10 to formally review the governing legislation of the Ombudsman.

The low light of 2014 was that although the Office had 8 (eight) investigators (Vila office 6, Santo office 2), the Ombudsman did not produce any Public Reports. This was caused by 3 major events: Firstly interruption in the office duties caused by the full repairwork and refurbishment of the whole Ombudsman office; secondly slowdown of investigative and administrative functions due to the planning and hosting of the Ombudsman Office 20th anniversary events. At the end of the day, Ombudsman reports are investigated and written by investigators and endorsed by the Ombudsman; and thirdly the need to kickstart the legislative reform back to life.

The increase of staff numbers in 2013 continued in 2014 with the recruitment through the Public Service Commission of another Investigator, Leadership Code Investigation section on 19 May 2015 bringing the staff strength up to 15 (fifteen).

Although the total Ombudsman Office staff in 2014 was 15 (including the Ombudsman and 2 Santo regional office staff) the number is still far short of the maximum staff for the Ombudsman's Office which is 36 (Ombudsman + 35 staff) according to the organization structure approved by the Public Service Commission in 2003.

Despite challenges, the Ombudsman Office continued to carry out its functions and annual business plan to the best of its ability.


Ombudsman
Kalkor Mataskelekele


2. INTRODUCTION

With many other cultures we commemorate births, birthdays, baptisms, graduations, weddings, deaths and memorials. For national anniversaries we celebrate important days such as Independence Day. Various faith groups in Vanuatu celebrate different festivities.

This year 2014 the Ombudsman Office staff showed sober appreciation for the sacrifices of veteran national leaders who constitutionally established an Ombudsman office as an "administrative watchdog" over the arms of government, civil servants and public officers who may be inclined to engage in unjust practices or corrupt activities.

Although the Constitution was signed by those national leaders on 5 October 1979 and came into effect on Constitution Day on 30 July 1980, the Office of the Ombudsman, established by the Constitution, was not set up until 15 July 1994 when the first Ombudsman or Ombudswoman Marie-Noelle Ferrieux Patterson was appointed.

15th July 2014 therefore marked the 20th anniversary of the establishment of the Office of the Ombudsman of the Republic of Vanuatu. The theme of the 20th anniversary commemoration was "Working Towards A Fair, Peaceful and Corruption Free Vanuatu". The anniversary like all anniversaries had its own *raison d'être*: Firstly it gave the staff an opportunity to break their work routine and reflect on the overall "milestones" of progress, or otherwise, of the Office of the Ombudsman of the Republic of Vanuatu. Secondly it allowed the staff to take stock of their own personal contribution and to reinvigorate their work efforts and renew their outlook on their individual and collective responsibilities.

Other important events that also occurred in 2014 were: The office went under a full repair that required the workmen to scrape out the old paint with machines that caused a lot of dust and noise which affected some staff and even the new painting and its strong chemical fumes. A review of previous review reports was also carried out by the Ombudsman and the legal section, and the Public Service Commission appointed a new Investigator for the Leadership Code Investigation section.

3. MANDATE OF THE OMBUDSMAN OFFICE

3.1 Mandate

The Ombudsman Office is mandated to:

- (a) Promote good administration:

- Its first obligation is to investigate complaints against "all public servants, public authorities and ministerial departments, with the exception of the President of the Republic, the Judicial Service Commission, the Supreme Court and other judicial bodies" (Constitution Article 62 (2)).
- (b) Protect the use of the official languages for the benefit of the people of Vanuatu (Constitution Articles 3 and 64):
- 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.
 - 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 3(1 to 2)). Article 64(1) and (2) of the Constitution state that:

"(1) 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.

(2) Where a citizen considers that there has been a breach of subarticle (1) he may make a complaint to the Ombudsman who shall conduct an enquiry in accordance with Articles 62 and 63."
- (c) Promote responsible leadership:
- Administer, enforce and supervise the Leadership Code Act and the other national laws;
 - Assist leaders through induction training and awareness programs so that their conduct is beyond reproach;
 - Ensure that leaders become more transparent and accountable to the people;
 - Seek to preserve the integrity of leaders and the government (public officers);

- Assist in the prosecution of leaders, if necessary, by the Public Prosecutor upon completion and submission of a public report and/or lodging of a formal complaint to the Police under section 36 of the Leadership Code Act.

3.2 Challenges

Having legally provided the above mandate in the respective governing legislations the attempt over the years by various Ombudsmen to prosecute corrupt leaders and accomplices under the Leadership Code Act have not succeeded fully probably as a result of either:

- (a) Failure of the Ombudsman to investigate and publish public reports on leaders concerned; or
- (b) Complaints against leaders were not followed up where complaints were lodged with other responsible agencies; or
- (c) Difficulties faced under the governing or other legislation.

4. **PROPOSED REVIEWS FOR AMENDMENTS TO THE GOVERNING LEGISLATIONS:**

From the time of the review of Professor Wiltshire ('The Wiltshire Review' of 2001) and subsequent reviews ('The McDowell Report' of 2002 and 'The 2004 Review Committee Report'), followed by workshops in 2009, 2010, 2011 and a retreat in 2013, it became evident that there was a strong desire on the part of Parliament, the public service, national traditional leaders and amongst ni-Vanuatu generally for a strong and independent Ombudsman and for legislation that is effective in encouraging government agencies and leaders to act fairly and with integrity. While the existence of the Leadership Code Act itself and the Office of the Ombudsman have succeeded in raising awareness of leaders duties, the fact that no leader has been charged for an offence under the Leadership Code Act since its inception in 1998, was widely seen as a sign that the law has failed and that the Ombudsman was indeed a Toothless Watch Dog. Therefore, the Ombudsman, in 2014 saw it fit and proper to re-align its effort. As part of the drive to reinvigorate and strengthen the work of the Ombudsman the Council of Ministers under the Prime Ministership of Hon. Moan Carcasses included in its 100 Day plan of the government in 2013 the three (3) following proposals, namely:

1. Amend the Ombudsman Act to reinstate power of the Ombudsman to institute a civil case against a leader to recover misappropriated funds;
2. Amend the Leadership Code Act to remove the prerequisite requirement for conviction under the Penal Code for conviction for breach of the leadership code, and
3. Insert a new section inside the Ombudsman Act to allow for anyone, including the Ombudsman, to prosecute a leader for breach of the Leadership Code Act if the Public Prosecutor has not commenced proceedings three months after issuing a report alleging breaches of the Leadership Code Act.

As the Ombudsman was far too long perceived to be weak and ineffective, the Ombudsman Office during the term of Ombudsman Kalkot Mataskелеkele gathered in the various reports, workshops, and seminars over the years as mentioned above to finally compile documents and information which it submitted in a formal reference to the Vanuatu Law Commission on the 10th September 2014 in the following terms:

"The Ombudsman of the Republic of Vanuatu, pursuant to section 8 of the Law Commission Act [Cap 115], has elected to make a request for reform of the law regarding the establishment and operation of the Office of the Ombudsman, namely the Constitution Chapter 9 Part II, the Ombudsman Act NO.27 of 1998 [CAP 252] and the Leadership Code Act NO.2 of 1998 [CAP 240].....

"The role of the Ombudsman is to strengthen and entrench good governance so that Government and the State and all its institutions may achieve their purpose in serving the expected social, economic and life needs of the people of Vanuatu. The raison d'etre of the proposed legislative reform is to strengthen the operation of the Office of the Ombudsman so that the Office can perform its functions pro-actively in the interest of good governance."

In undertaking the review, the Law Commission was asked to consider in particular whether or not Vanuatu law and practice:

- Can accept new institutions such as the Leadership Tribunals?
- Can accept the Ombudsman and officers engaging in prosecution functions?
- Can accept evidence collected by the Ombudsman during investigations as admissible evidence in a court, or does the Ombudsman and officers need to adopt more formal procedures of evidence and statement taking from witnesses?
- That since Vanuatu is a democratic republic that no person is above the law, subject to protection afforded by the Constitution or judicial or prerogative rights or legal or judicial convention.

5. 20TH ANNIVERSARY OF THE OMBUDSMAN OFFICE

5.1 AID FUND FOR ANNIVERSARY

For the 20th anniversary commemoration on the 15th of July 2014, the Office of the Ombudsman established an anniversary committee to organize the anniversary events. The anniversary committee sought additional funding separate from the Ombudsman Office annual budget through the Stretem Rod Blong Jastis (Vanuatu Law & Justice Partnership) Aid Fund. The Vanuatu Law & Justice Partnership as the Grantor gave out an amount of 4,054,177 vatu –which was approved with the signing of an agreement on the 07th of May 2014 for the following purposes:

- (a) Building renovation;
- (b) New office curtains;
- (c) Staff Uniforms; and
- (d) Advertisements & publicity.

5.2 PACIFIC OMBUDSMAN ALLIANCE BOARD MEETING

The 20th Anniversary of the Ombudsman Office coincided with the Pacific Ombudsman Alliance (POA) Board Meeting which was held in Port Vila on the morning of 14 July, the day before the 20th anniversary. The meeting came about as a result of an invitation from the Ombudsman of the Republic of Vanuatu, Mr. Kalkot Mataskelekele as part of the 20th Anniversary events.

The POA Board was chaired by the Commonwealth Ombudsman of Australia, Mr. Colin Neave. Board Members were Dame Beverly Wakem (NZ Chief Ombudsman), Rigo Lua (PNG Chief Ombudsman), Bruce Barbour (NSW Ombudsman), Kalkot Mataskelekele (Vanuatu Ombudsman), Junior Patrick (Republic of Marshal Islands Auditor) and Gillian Itsimaera (Nauru Auditor representative). The New Zealand Chief Ombudsman and New South Wales Ombudsman were unable to attend the Port Vila meeting.

The Board agreed that POA should continue into the future as a body, and although funding may be required to conduct its activities, POA should have a certain degree of independence as a forum to promote anti-corruption awareness and training programmes.

The afternoon of the meeting was marked by a courtesy call by POA Board Chairman Colin Neave in the company of Vanuatu Ombudsman to meet the Prime Minister of Vanuatu Hon Joe Natuman.

5.3 20TH ANNIVERSARY COMMEMORATION EVENTS

The 20th anniversary commemoration was marked by the following events and features:

Press release

A press release was put out on 3 July 2014 by the Ombudsman announcing the 20th anniversary events general program and inviting the public to participate in the public march to open the anniversary commemoration on the morning of Monday 7th July 2014.

Opening of 20th Anniversary Events & Exhibition

The anniversary commemoration events commenced on 7th July 2014 morning with the opening of the Ombudsman Office Exhibition at the French Embassy Exhibition Room by the Prime Minister Hon Joe Yhakowaie Natuman.

In his introduction the Ombudsman acknowledged the Prime Minister as the Minister responsible for the Ombudsman and Ombudsman Office, thanked the government for establishing the Ombudsman Office under the Constitution, acknowledged former Ombudswoman and Ombudsmen and praised the PM for attending the ceremony despite the very heavy rain.

The Prime Minister gave his speech in recognition to the Ombudsman as an institution established under the Constitution. He recalled that he himself and the Ombudsman were members of the Constitutional Drafting Committee which formulated the Constitution in 1979. The Prime Minister said that although the Constitution came into effect on Independence Day in 1980, the Office of the Ombudsman was not established until 14 years later. He said that the first Ombudsman was not appointed until 15th July 1994.

The Prime Minister made other remarks and then declared the Exhibition and the 20th Anniversary commemoration week opened.

Due to the heavy rain on that morning, the public march which had been planned was cancelled.

The exhibition lasted for 5 days and was supervised by a staff on rotation duty. It was visited by members of the public interested to know about the history and

the work of the Ombudsman Office. As an awareness exercise the Exhibition was a useful and successful event.

Awareness Teams

During the Exhibition week from Monday 7th to Friday 11th July the Ombudsman and Staff divided into Awareness Teams and went out to give awareness presentations to different Government Ministries, departments, including the Vanuatu Police senior staff, as well as to all the secondary schools invited to participate in the TV Quiz Competition (see item 'Schools TV Quiz Competition').

Schools TV Quiz Competition

The Schools TV Quiz Competition took place on 11th July. The Quiz was organized by the Ombudsman Office with 10 schools or institutions, namely -

- 1) Ecole Francais,
- 2) INTV English stream,
- 3) INTV French stream,
- 4) Lycee Louis Antoine de Bougainville,
- 5) Lycee de Monmartre,
- 6) Malapoa College,
- 7) Niel Thomas Ministry College,
- 8) Onesua Presbyterian College,
- 9) Port Vila Central School,
- 10) Tebakor SDA College.

Several weeks before the conduct of the Schools Quiz Competition on Television, the staff team responsible for the event sent a letter and information to the Principals of the named 10 institutions inviting them to select a team of students to take part in the Schools TV Quiz Competition. The quiz questions were based on information and pamphlets given out by staff awareness teams visiting the schools (see item 'Awareness Teams').

The purposes of the competition was to encourage awareness amongst secondary school students, young people in the community and people at large, about the work and responsibility of the Ombudsman and the Ombudsman Office.

The Quiz Competition was conducted and pre-recorded at the VBTC studio, Port Vila on Friday 11th July in the morning for broadcast during the anniversary week. Four institutions decided not to take part in the Quiz competition –

- INTV English stream,
- INTV French stream,
- Niel Thomas Ministry College and
- Port Vila Central School.

The televised Quiz programme started with a brief acknowledgment and thank you introductory remarks from the Ombudsman.

The TV Quiz Competition was won by Onesua Presbyterian College with a prize of Vt.30,000. Second place was taken by Lycee Louis Antoine de Bougainville (Vt.20,000) and third place went to Malapoa College (Vt.10,000).

POA Board Meeting

The Pacific Ombudsman Alliance Board meeting was held in Port Vila on 14th July 2014 (see item 5.2 – 'Pacific Ombudsman Alliance Board Meeting').

Anniversary Day 15th July 2014 events:

- Public march happened on 15 July 2014 around 8.00am in the morning led by the VMF band from the Vatumaru Bay area to the new Ombudsman's Office premises (formerly Ministry of Lands, Geology & Mines office) at Rue Pasteur. The procession included past and present staff members of the Ombudsman Office, POA Board members, families and friends and some members of the public.
- Public parade arrived at platform and shelter stage where other activities took place. The temporary platform stage and shelter was erected on Rue Pasteur in front of the Ombudsman Office with the approval of the Port Vila Municipal Council authority.
- Prime Minister Hon Joe Yhakowaie Natuman, was welcomed by salusalu givers and by the Ombudsman at the stage. Salusau were also hung on other dignatories.
- Ombudsman made a short welcome speech to acknowledge and thank the presence and contribution of:
Hon Joe Yhakowaie Natuman, Prime Minister,
Chief Seni Mao Tirsupe, Chairman Malvatumauri National Council of Chiefs,
Hon Ulrich Sumto, Mayor of Port Vila,
Bishop John Bosco Baremes, Vice Chairman VCC,
Mr. Colin Neave, Australian Commonwealth Ombudsman & Chairman of Pacific Ombudsman Alliance,
Mr. Rigo Lua, Chief Ombudsman of PNG & Vice Chairman of POA,
Mr. Junior Patrick, Auditor General, Republic of Marshal Islands & POA Board member,
Ms. Gillian Itsimaera, Auditor Nauru & POA Board member,

Mrs. Marie Noell Ferrieux Patterson, first Vanuatu Ombudsman,
Mr. Hunington Alatoa, second Vanuatu Ombudsman,
Guests, and
Former & present Staff of Ombudsman Office.

- Colin Neave, Australian Commonwealth Ombudsman & Chairman of Pacific Ombudsman Alliance gave his remarks to the occasion.
- Prime Minister Yhakowaie Natuman delivered his keynote address referring to the Council of Ministers decision approving the naming of the Ombudsman building as "Ombudsman Haus".

The Council of Ministers decision No: 95 of 2014 states:

- ❖ *"...apruvum se Ombudsman I save nemem bilding we ofis blong Ombudsman I loket long hem I kam "Ombudsman haos"*
- ❖ *Taskem Stet lo ofis blong priperem wan ligol agrimen we Gavman bambae I saenem blong givim fomol rekognisen long "Ombudsman haos" olsem permanent ofis premises blong Ombudsman*

- After his address the Hon Prime Minister unveiled the plaque (in the 3 official languages) of the newly refurbished building as "Ombudsman Haus" accompanied by Colin Neave, Chairman of Pacific Ombudsman Alliance, and declared the new office opened.
- Bishop John Boscco Baremes, Vice Chairman of the VCC then blessed the "Ombudsman Haus".
- The Ombudsman Office 20th Anniversary events on 15th July concluded later in the evening with a keynote address from the Ombudsman followed by the Anniversary dinner for invited guests at the Hospitality & Tourism Training Centre.

Below are several pictures taken during the occasion of the 20th Office Anniversary.



Photo: Quiz participants posing with staff members at the VBTC studio.



Photo: Current staff (white tops) and former staff of the Ombudsman Office came together to celebrate the 20th Anniversary of the Office with Mrs Nerry Tosusu (2nd left back row - wife of late Ombudsman Pasa Tosusu) came together to view 20th Anniversary exhibition at French Embassy exhibition hall 7th July 2014.

The Ombudsman and Staff acknowledge and thank the Government of the Republic of Vanuatu and the Vanuatu Law & Justice Partnership (Stretem Rod Blong Jastis Progam) for their support and funding which ensured the success of the 20th Anniversary commemoration of the Ombudsman Office.

6. OFFICE ADMINISTRATION

6.1 Corporate/Business Plan

The Office of the Ombudsman created a Corporate/Business Plan for 2014. The purposes of these plans were to be a guide to assist the office to achieve its goals – Prompt Investigation, Enforcement of Multilingualism, Effective Outreach, and Improved Resource Management. The Corporate plan sets out the Vision and Mission statement of the Office and clearly states the roles, structures and objectives of the agency and the key performance indicators to measure the achievements.

The Vision and Mission of the Ombudsman Office are:

Vision:

"To assist government agencies and Leaders to carry out their roles effectively and fairly under the laws of Vanuatu".

Mission

"To promote good administration and responsible leadership in the government and to protect the use of the three official languages to benefit the people of the Republic of Vanuatu".

6.2 BUDGET

6.2.1 PAYROLL AND OPERATION

The budget for the Ombudsman Office was reduced from VT 40,972,648 in 2013 to VT36,972,648 in 2014 - a budget cut of VT 4,000,000 (4%) due to the government allocation of Office space at the Ombudsman Haus, (former Ministry of Lands) Rue Pasteur, in Port Vila. The amount of VT4,000,000 used to be spent on renting an office space on the second floor at the Pilioko House in Port Vila.

2013 Budget	Allocated	Spent	Unspent	Overspent
Payroll	(total budget VT40,972,648)	VT22,792,648	VT2,055,165	0
Operation	VT18,177,695	VT11,298,749	VT6,879,749	Overspent 0
2014 Budget	Allocated	Spent	Unspent	
	VT36,503,195	VT35,295,965	VT1,207,230	
Payroll	VT26,219,821			
Operation	VT10,283,374			

The budget was distributed to fund the following activities:

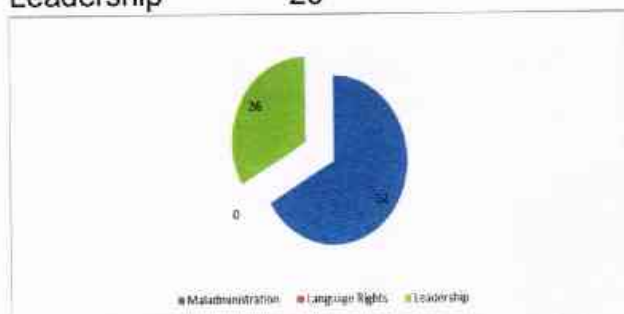
- VT30,170,256 for salaries and allowances of current staff (including the salary and allowances for one Investigator and one Senior Language Right Officer to be recruited in 2014);
- VT 6,802,392 for administration and overhead costs.

7. INVESTIGATIONS

The year 2014 showed that the cases were evenly distributed with the type of complaint being received or investigated. Out of the complaints that the office received, 52 concerned maladministration, leadership code with 26 and zero for language rights. Please refer to the graph indications below.

Type of Complaint

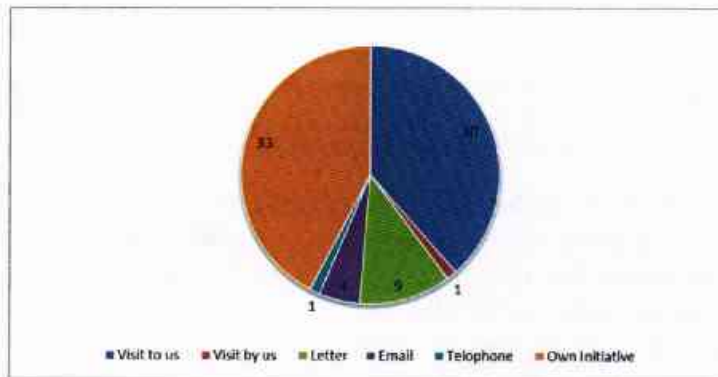
Maladministration 52
Language Rights 0
Leadership 26



With regards to the methods of complaint or how the complaints came into the office, 30 came through visits to the office, 1 by visit from the office, 9 by letter, 4 by email, 1 by phone and 33 by own initiative. Please refer to the graph below.

Method of complaint

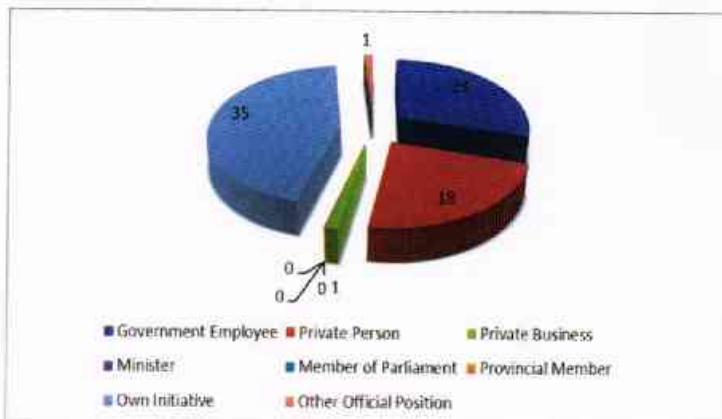
Visit to us	30
Visit by us	1
Letter	9
Email	4
Telephone	1
Own Initiative	33



With regards to types of complainants that came in the office, government employee is 23, private person is 18, private business 1, minister 0, MP 0, provincial member 0, own initiative 35, other official position 1. Refer to the graph below.

Type of Complainant

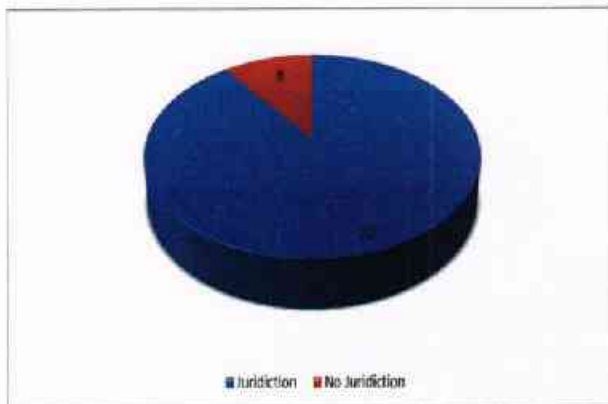
Government employee	23
Private person	18
Private business	1
Minister	0
Member of Parliament	0
Provincial Member	0
Own Initiative	35
Other Official position	1



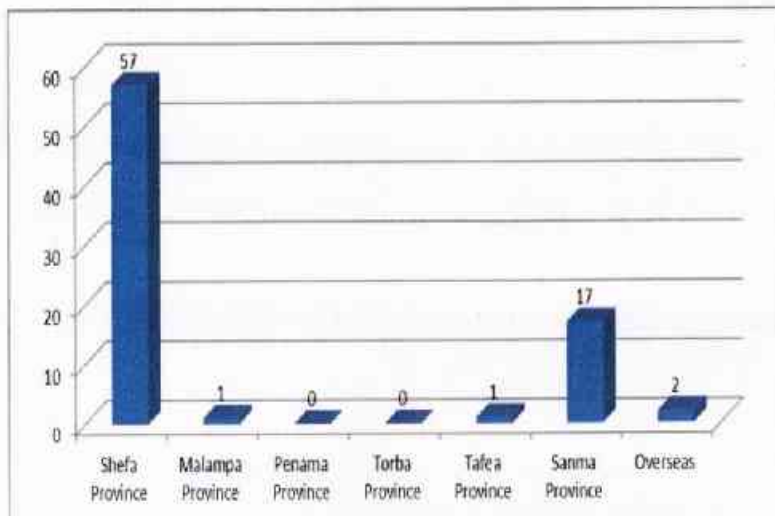
Complaints that were received were mostly within jurisdiction making up a total of 70 with 8 falling into the no jurisdiction category. Regarding complaints coming from the provinces, 57 came from Shefa (including Port Vila), 1 from Malampa, TORBA 0, PENAMA 0, TAFEA 1, SANMA 17 (including Luganville) and overseas 2

Complaints within Jurisdiction and No Jurisdiction

Jurisdiction	70
No Jurisdiction	8



Shefa Province	57
Malampa Province	1
Penama Province	0
Torba Province	0
Tafea Province	1
Overseas	2

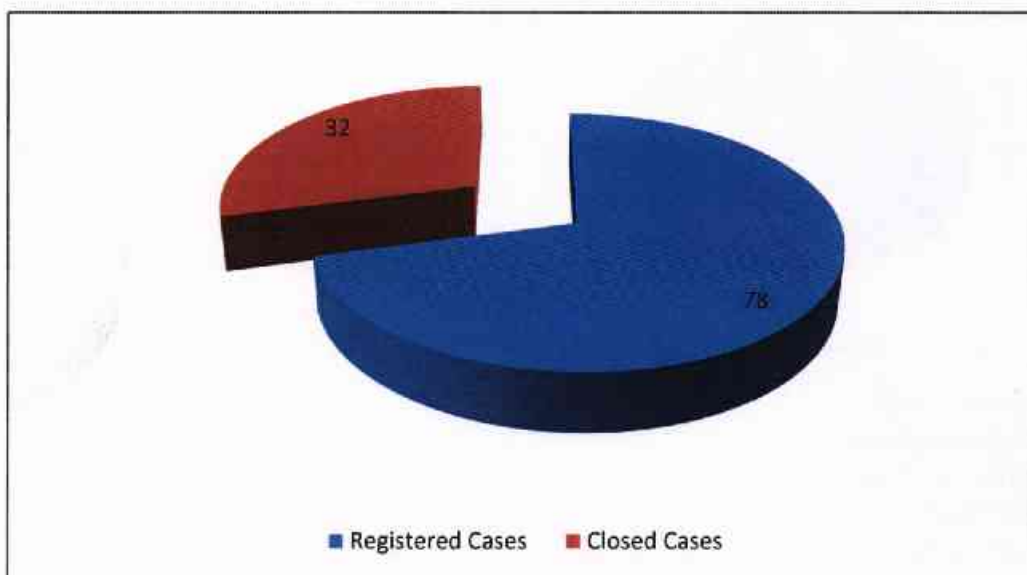


The Ombudsman did not produce any Public Reports in 2014, which is the first time in the history of the Office of the Ombudsman that no report was made for a

particular year. This appears to be due to several factors including: the large number of backlog of cases needing to be reviewed and closed; the involvement of the Vila based investigative staff (6) in the planning and carrying out of the 20th anniversary commemoration events; the full repairwork and refurbishment of the whole Ombudsman office which interrupted the office work and even affected staff health; and the restarting of the legislative review process.

Cases registered and closed

Cases registered	78
Cases closed	32



8. CONCLUSION

The role and function of the Ombudsman is to investigate and make sure that:

- There is no injustice in the Vanuatu administration (Constitution Article 62(1);
- Leaders act responsibly at all times within the law (Constitution Article 66 & Leadership Code Act [CAP. 240]; and
- The Vanuatu administration properly uses the three official languages (Bislama, English & French) in providing services to the people of Vanuatu as required (Constitution Articles 3 and 64(1).

The Ombudsman trusts that the information contained in this Annual Report for 2014 gives sufficient assistance to members of the Government and the

Honourable Members of Parliament concerning the responsibilities, role, function and work of the Ombudsman of the Republic. This report also gives an opportunity to Honourable MPs to consider the strengths and weaknesses of the Ombudsman Office and to suggest how the agency can improve its role and function. Lastly, the Ombudsman encourages all Honourable Members of Parliament to make sure that in their individual and collective actions and words, they assist the work of the Ombudsman to make sure that the Republic of Vanuatu becomes 'corruption free' for the benefit of the people of Vanuatu today, especially young people, and to benefit future generations that are yet to be born.

End of 2014 Annual Report