

sentation, which ensures fair representation of different political groups and opinions.

Unless dissolved earlier, Parliament continues for 4 years from the date of its election.

Executive - The President, the Prime Minister and the Council of Ministers, who are appointed by the Prime Minister make up the Executive branch of Government in Vanuatu.

The executive puts the laws into action.

Judiciary - The judicial power of the State is given to the various courts – the Island Court, the Magistrates Court, the Supreme Court and the Court of Appeal. The Courts are independent of the legislative and executive branches of the government. They are subject only to the Constitution and the law. The function of the judiciary is to resolve proceedings according to law. If there is no applicable law, a court must determine the matter according to substantial justice and whenever possible in conformity with custom.

The National Council of Chiefs

The Constitution provides for the National Council of Chiefs. This is a council made up of custom chiefs.

The functions of the council are to discuss all matters relating to custom and tradition. It may make recommendations for the preservation and promotion of ni-Vanuatu culture and languages. It may also be consulted on any question, particularly any question in relation to tradition and custom in connection with any proposed law being looked at by Parliament.

Land

The Constitution provides that all land in the Republic of Vanuatu belongs to indigenous custom owners and their descendants. Only indigenous citizens who own land according to a recognised system of land ownership are entitled to perpetual ownership of their land.

Changes to the Constitution

Changes, or “amendments”, to the Constitution cannot be made unless two-thirds of the members of Parliament agree to the changes. Any proposed changes to the parts of the Constitution dealing with the status of Bislama, English and French, the electoral system, or the parliamentary system also requires support in a national referendum. This means that the majority of the electors must also agree to the change.

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The information contained in this brochure is only intended as a guide to the law and is not a substitute for obtaining legal advice. If you have any further questions we strongly suggest you seek legal advice.

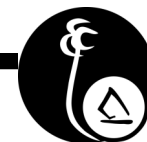
Note: This information applies to people who live in, or are affected by, the law as it applies in Vanuatu.

The information in this brochure is current as at 30 June 2006.

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**Understand
your
Constitution**



**A USP COMMUNITY LEGAL
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Understand Your Constitution!

This brochure introduces some of the fundamental aspects of the Constitution of Vanuatu. It is a foundation for you in understanding your Constitution. Use it as a tool to try and understand your Constitution better.

What is the Constitution?

The Constitution is the supreme law in Vanuatu.

The Constitution was written at Independence and it sets out the basic values and structures governing the **sovereign** and **democratic** nation of Vanuatu. As a sovereign and democratic nation, Vanuatu is able to make decisions for itself, and every citizen of Vanuatu who is at least 18 years of age has a say in how the nation is run by having the right to vote, and every citizen of Vanuatu who is at least 25 years of age has the right to stand for election themselves.

Fundamental rights and duties

The Constitution sets out fundamental rights and duties of all persons.

Fundamental rights are our basic rights as individuals. These rights are recognised as everybody's, without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex. They are subject to respect for the rights and freedoms of others and to the legitimate public interest in defence, safety, public order, welfare and health. The fundamental rights listed in Part 1, Chapter 2 of the Constitution are the right to:

- life;
- liberty;
- security of the person;
- protection of the law;
- freedom from inhumane treatment and forced labour;
- freedom of conscience and worship;

- freedom of expression;
- freedom of assembly and association;
- freedom of movement;
- protection for the privacy of the home and other property and from unjust deprivation of property; and
- equal treatment under the law or administrative action.

If you think that any of your fundamental rights have been or are likely to be infringed, you can apply to the Supreme Court to enforce that right.

Fundamental duties are duties that every person has to themselves, their descendants and to others. The fundamental duties listed in Part 2, Chapter 2 of the Constitution include:

- to respect and to act in the spirit of the Constitution;
- to exercise the rights guaranteed or conferred by the Constitution and to use the opportunities made available to you under it to participate fully in the government of the Republic of Vanuatu;
- to respect the rights and freedoms of others and to cooperate fully with others in the interests of interdependence and solidarity;
- in the case of a parent, to support, assist and educate all of your children, legitimate and illegitimate, and in particular to give them a true understanding of their fundamental rights and duties and of the national objectives and of the culture and customs of the people of Vanuatu; and
- in the case of a child, to respect your parents.

It should be noted that there are more fundamental duties than are listed here. See Part 2, Chapter 2 of the Constitution.

You cannot take a person to court for a failure to comply with their fundamental duties. However, the Constitution provides that it is the responsibility of all public authorities to encourage compliance with them.

Citizenship

The Constitution sets out special rights of citizens and entitlements to citizenship.

Special rights of citizens - As a citizen of Vanuatu, you have rights that others in the country do not have. These include the right to vote, to run for election to Parliament, to work in state services, and to make your permanent home in Vanuatu.

Entitlement to citizenship - There are three ways to become a citizen of Vanuatu:

- if you are a person of ni-Vanuatu **ancestry** (that is, if someone in your family is or was in the past ni-Vanuatu), you can automatically become a citizen of Vanuatu;
- anyone in Vanuatu or overseas becomes a citizen of Vanuatu if at least one of his or her parents is a citizen of Vanuatu; and
- a person can become a citizen by **naturalisation**. This means you can become a citizen of Vanuatu if you have lived in Vanuatu for 10 years.

The Constitution does not recognize **dual nationality**. This means that a person cannot have two citizenships. Under the Constitution, if you are a citizen of another country then you cannot become a citizen of Vanuatu unless you give up the citizenship of that other country.

The 3 Branches of the Government

The Constitution provides for the 3 branches of government; the Parliament, the Executive and the Judiciary.

Parliament - The Constitution gives the power to the Parliament (whose members are voted for by the people) to make laws for the peace, order and good governance of Vanuatu. While the Parliament is the principal law making body, it may sometimes delegate this power to other persons or bodies, such as Ministers or Councils.

Since the Parliament is elected through national elections, it includes an element of **proportional repre-**