

VANUATU 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Vanuatu is a multiparty parliamentary democracy with a freely elected government. The president is head of state. Parliament elected Tallis Obed Moses president in July after the former president died in June. Following a snap election in 2016, which observers considered generally free and fair, parliament elected Charlot Salwai as prime minister.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: police abuses; violence against women; and violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government made efforts to prosecute and punish abuses by officials, although a degree of police impunity persisted.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports government officials employed them.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Independent Monitoring: The government permitted visits by independent human rights observers. Representatives from the International Committee of the Red Cross, judges from the supreme court, university students and contractors of the New Zealand Correctional Services visited the prisons.

Improvements: With support from New Zealand, the government finished construction of a new prison in Luganville with a capacity of 83 prisoners; it held 30 inmates as of October.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention; however, authorities did not always observe these prohibitions. The Vanuatu Police Force (VPF) did not respond to multiple requests for numbers of complaints filed against police for arbitrary arrest or detention and/or the disposition of such complaints.

Role of the Police and Security Apparatus

The VPF maintains internal security, and the Vanuatu Mobile Force (VMF), a paramilitary police unit, makes up the country's defense force. The commissioner of police heads the police force, including the Police Maritime Wing, Immigration Department, National Disaster Management Office, and National Fire Service.

Civilian authorities did not have effective mechanisms to punish police abuse or corruption but exercised overall control of the force. Allegations of police impunity, particularly in the VMF, continued. Political instability and a series of legal cases in previous years exacerbated divisions within the police force and undermined policing capacity. These political and legal battles have settled, and a permanent commissioner was appointed in May.

The law mandates the Office of the Ombudsman to investigate complaints of security force abuses. Additionally, the police Professional Standards Unit (PSU) investigates allegations of ethics violations and misuse of force. In 2016 the PSU received 108 complaints against 80 officers, leading to 61 criminal charges and 47 internal disciplinary actions. The VPF had 574 officers in total.

Foreign assistance designed to address some of the problems confronting the security forces continued. Assistance projects included recruitment of new officers, establishment of additional police posts on outer islands and in rural areas, and repair and maintenance of police buildings. Under the Vanuatu-Australia Police Project, three Australian Federal Police advisers worked full-time with the VPF.

Arrest Procedures and Treatment of Detainees

A warrant issued by a court is required for an arrest, although police made a small number of arrests without warrants. Authorities generally observed the constitutional provision to inform suspects of the charges against them.

The criminal procedure code outlines the process for remanding alleged offenders in custody. To remand a person in custody requires a valid written warrant from a magistrate or a Supreme Court justice. Warrants typically are valid for 14 days in the first instance, and the court may extend them in writing. In general the Correctional Services Department's practice was not to accept any detainee into custody without a valid warrant. A system of bail operated effectively, although some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. Authorities allow detainees prompt access to counsel and family members. The Public Defender's Office provides free legal counsel to indigent defendants, defined as those who earn less than 50,000 vatu (\$464) per year.

Pretrial Detention: Pretrial detainees constituted approximately 24 percent of the prison population. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. The average length of time spent in remand before a case went to trial was approximately 12 weeks, although it could be longer in the outer islands.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: There were no reports of persons arrested or detained who were not allowed to challenge the legality of their detention and obtain prompt release if a court found them detained unlawfully.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. The judicial system derives from British common law. Judges conduct trials and render verdicts. The courts uphold constitutional provisions for a presumption of innocence, a prohibition against double jeopardy, a right to counsel, a right to free assistance of an interpreter, a right to question witnesses, a right not to be compelled to testify or confess guilt, a right to be present, and a right of appeal. The constitution also states that if the accused does not understand the language used in court proceedings, an interpreter must be provided. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters, including for human rights violations. The government, including police, generally complied with court decisions on human rights violations. There continue to be some reports that police did not promptly enforce court orders related to domestic violence (see section 6, “Women”). There was no mechanism to appeal adverse domestic decisions to a regional human rights body.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

Internet access was available and widely used in urban areas, but rural areas remained inadequately served.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

Internally Displaced Persons (IDPs)

In September the prime minister ordered the compulsory evacuation of approximately 11,000 persons on the island of Ambae due to a volcanic eruption. The government established evacuation centers on nearby islands and the governments of Australia and New Zealand also provided emergency funding and essential supplies. Evacuees complained of overcrowding, poor sanitary

conditions, and food and water shortages in the centers. One elderly man died in an evacuation center, but the cause of death is not known.

Protection of Refugees

Access to Asylum: The law does not provide for the granting of asylum or refugee status, but the government developed an ad hoc system for providing protection to refugees and granted temporary refugee status and asylum to those seeking it while awaiting resettlement by UNHCR.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: Despite time and funding constraints faced by the Electoral Commission, international and domestic observers considered the 2016 snap election free and fair. Of 24 election disputes filed by unsuccessful candidates, the commission dismissed 23 for lack of evidence. One dispute necessitated a recount, which changed the result of the election for that seat. Voter rolls continued to be problematic and larger than would be expected based on population size, but this situation did not appear to have a significant impact on results. Media covered the election freely, and voters could express their preference without fear of intimidation or coercion.

Political Parties and Political Participation: Political parties could operate without restriction but were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities. Most of the 28 political parties that contested the 2016 election were newly formed.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process. Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in political life. No women served in the 52-member parliament, although eight women contested the 2016 election. Elections for four provincial councils were held in March and only one woman won an open seat.

The law reserves seats for women in municipal governments. Both Port Vila and Luganville municipal councils have reserved seats for women, and in 2015 Luganville voters elected a woman to an open seat. Women interested in running for public office received encouragement from the Vanuatu Council of Women and the Department of Women's Affairs, which also offered training programs.

A small number of ethnic minority persons (non-Melanesians) served in parliament. Prime Minister Salwai is from the francophone population.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. Officials sometimes engaged in corrupt practices with impunity, and there were isolated reports of government corruption.

The Ombudsman's Office and Auditor General's Office are key government agencies responsible for combating government corruption.

Corruption: The law provides for the appointment of public servants based on merit, but political interference at times hampered effective operation of the civil service.

In January the Ombudsman Commission recommended that current member of parliament and former minister of education Bob Loughman be prosecuted for breaching the leadership code by trying to exercise undue influence over the selection process for the Vanuatu Institute of Teacher Education. The commission also recommended that member of parliament Hosea Nevu be referred for criminal charges of assault on a driver for the Public Solicitor's Office. As of September the Public Prosecutor's Office had not yet acted on these referrals.

Financial Disclosure: Members of parliament and elected members of provincial governments are subject to a leadership code of conduct that includes financial disclosure requirements. They must submit annual financial disclosure reports to the clerk of parliament, who then publishes a list of elected officials who did not comply. The Office of the Ombudsman, which investigates those who do not submit reports, confirmed that some officials did not comply with these requirements. Reports are not made available to the public, and the ombudsperson only has access for investigative purposes.

Section 5. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: In consultation with other political leaders, the president appoints a government ombudsman to a five-year term. Since its establishment the Ombudsman's Office issued a number of reports critical of government institutions and officials; however, it did not have power to prosecute, and the findings of its investigations are not permissible as evidence in court proceedings. The ombudsman referred cases deemed valid to the Public Prosecutor's Office for action, but there were few prosecutions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape is a crime with a maximum penalty of life imprisonment. The law does not specifically criminalize spousal rape, but it can be prosecuted under related statutes that cover assault and domestic violence. Police, however, were frequently reluctant to intervene in what they considered domestic matters.

Violence against women, particularly domestic violence, was common. According to the most recent survey data available, 60 percent of women in a relationship experienced physical or sexual violence by a partner in their lifetime. Most cases, including rape, were not reported to authorities because women, particularly in rural areas, were ignorant of their rights or feared further abuse.

The law criminalizes domestic violence and seeks to protect the rights of women and children. Violators could face maximum prison terms of five years, a maximum fine of 100,000 vatu (\$928), or both. The law also calls for police to issue protection orders for as long as there is a threat of violence. Police have a "no drop," evidence-based policy under which they do not drop reported domestic violence cases.

There were no nationwide government information programs designed to address domestic violence. Although media attention to domestic violence and abuse was

generally limited, the murders of two women by their partners in Port Vila received significant attention. In June Alice Karis died after sustaining head injuries inflicted by her boyfriend during a fight, and in August Flora Charley was found dead in her home after being stabbed by her partner. In both cases, the perpetrators were arrested and are awaiting trial.

The Department of Women's Affairs played a role in implementing family protection. The Police Academy and the New Zealand government provided training for police in responding to domestic violence and sexual assault cases.

Nongovernmental organizations (NGOs) played an important role in educating the public about domestic violence and helping women access the formal justice system, but they lacked sufficient funding to implement their programs fully.

Other Harmful Traditional Practices: Customary bride-price payments continued to increase and contributed to the perception of male ownership of women.

Sexual Harassment: The law does not prohibit sexual harassment, and it was a problem. Sexual harassment was widespread in the workplace (see section 6.d.).

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The constitution provides women the same personal and religious rights as men. Laws regarding marriage, criminal procedures, and employment further enshrine women's rights as being equal to those of men. Although the law does not prohibit women from owning or inheriting property or land, tradition generally bars women from land ownership or property inheritance. The country's nationality law discriminates against citizen mothers who may not alone transmit citizenship to their children.

While women have equal rights under the law, they were only slowly emerging from a traditional culture characterized by male dominance, and women experienced discrimination in access to employment, credit, and pay equity for substantially similar work (see section 7.d.). The Department of Women worked with regional and international organizations to increase women's access to the formal justice system and educate women about their rights under the law.

Children

Birth Registration: A citizen father may transmit citizenship to his child regardless of where the child is born. A citizen single mother may not transmit citizenship to her child, but the child may apply for citizenship at age 18 years. This lack of citizenship at birth can lead to a child being denied passports and other citizen rights and services. Parents usually registered the birth of a child immediately, unless the birth took place in a very remote village or island. Failure to register does not result in denial of public services.

Education: The government stressed the importance of children's rights and welfare, but significant problems existed with access to education. Although the government stated a commitment to free and universal education, school fees and difficult geography were a barrier to school attendance for some children.

School attendance is not compulsory. Boys tended to receive more education than girls. Although attendance rates were similar in early primary grades, proportionately fewer girls advanced to higher grades. An estimated 50 percent of the population was functionally illiterate.

Child Abuse: Observers did not believe child abuse to be extensive, and the government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available. The traditional extended family system generally protected children.

Early and Forced Marriage: The legal age for marriage is 21 years, although boys as young as 18 years and girls as young as 16 years may marry with parental permission. In rural areas and outer islands, some children married at younger ages. In 2016 UNICEF reported that approximately 21 percent of children married before age 18.

Sexual Exploitation of Children: The law addresses statutory rape, providing a maximum penalty of five years' imprisonment if the child is older than 12 years but younger than 15 years, or 14 years' imprisonment if the child is younger than 12 years. The law also prohibits commercial sexual exploitation of children, the sale of children, and the offering or procuring of a child for the purpose of prostitution or pornography. Pornography penalties include up to a two-year

prison sentence. These laws were enforced, but there were no criminal cases dealing with pornography during the year.

Child pornography is illegal. The maximum penalty is five years' imprisonment if the child is 14 years or older, and seven years' imprisonment if the child is younger than 14 years. Under the law the age of consensual sex is 16 years regardless of sex or sexual orientation. Some children younger than 18 years engaged in prostitution.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The country's Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

No law specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. Although the building code mandates access for persons with disabilities in existing and new facilities, they could not access most buildings. The government did not effectively implement national policy designed to protect the rights of persons with disabilities. The government generally relied upon the traditional extended family and NGOs to provide services and support to persons with disabilities. The high rate of unemployment in the general population, combined with social stigma attached to disabilities, meant few jobs were available to persons with disabilities (see section 7.d.). Access to services through the Ministry of Health's mental health policy was very limited. Schools were generally not accessible to children with disabilities.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

There are no laws criminalizing sexual orientation or same-sex sexual conduct, but there were reports of discrimination and violence against LGBTI persons. LGBTI groups operated freely, but there are no antidiscrimination laws to protect them. In May the country's first LGBTI advocacy group officially registered as an NGO.

Other Societal Violence or Discrimination

Traditional beliefs in sorcery fueled violence against persons marginalized in their communities. Women were often targets of opportunity.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of all workers to form and join independent unions, strike, and bargain collectively. While the law does not require union recognition by the employer, it prohibits antiunion discrimination once a union is recognized. Unions require government permission to affiliate with international labor federations; the government has not denied any union such permission.

The law prohibits retaliation for legal strikes. The law requires unions to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. The minister of labor may prohibit persons employed in essential services from striking. Under law a court may find any person who fails to comply with such a prohibition guilty of an offense; similarly, for strikes in nonessential services, courts may also find workers failing to comply with procedural requirements guilty of an offense. Convictions for such offenses may result in an obligation to perform compulsory labor in public prisons. The International Labor Organization (ILO) called on the government to take the necessary measures in order to verify, both in law and in practice, that the government could impose no sanctions involving compulsory labor for organizing or peacefully participating in a strike.

In the case of private sector employees, complaints of violations of freedom of association are referred to the Department of Labor for conciliation and arbitration. In the public sector, the Public Service Commission handles complaints of violations. Complaints of antiunion discrimination must be referred to the Department of Labor, and several referrals occurred during the year. According to

the commissioner for labor, the department had developed a dispute resolution process to manage these grievances.

The government effectively enforced applicable laws without lengthy delays or appeals. Resources were limited and inspections were generally only carried out following complaints. Penalties for violating the law were sufficient to deter violations.

The government and employers respected freedom of association and the right to collective bargaining.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit all forms of forced or compulsory labor, and the law prohibits slavery and human trafficking. The ILO noted that the law excludes from the definition of forced labor any work or service that forms part of the national civic obligations of citizens, but that the law does not define such work.

The government enforced the law. Penalties for violating the law were sufficient to deter violations. There were no reports such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes the minimum age for employment at 14 years. The law prohibits children younger than age 12 from working outside family-owned agricultural production, where many children assisted their parents. Children ages 12 through 14 years may perform light domestic or agricultural work if a family member works alongside the child, and agricultural work if the community does it collectively. Children younger than 18 years generally may not work on ships; however, with the permission of a labor officer, a child age 15 years may work on a ship. Although parliament established a minimum age of 15 years for hazardous work, the law does not comply with international standards, because it does not prohibit children between 16 and 17 years from engaging in hazardous work, such as industrial labor and work on ships.

The government effectively enforced the law. Penalties for violations were sufficient to deter violations.

The Labor Department confirmed there were no reported cases of child labor during the year, and department action to address child labor was limited to

informal presentations on the topic. There were no credible reports of children employed in agriculture illegally. There were reports children were subjected to commercial sexual exploitation (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The law does not prohibit employment discrimination with respect to race, color, religion, political opinion, national origin or citizenship, disability, language, sexual orientation and/or gender identity, age, language, HIV or other communicable disease status, or social origin.

The government did not effectively enforce prohibitions on employment discrimination against women, which was widespread. The law did not specify penalties for such violations. Media reported that a young female employee was fired from her job after reporting that she had been sexually abused by her supervisor. Her termination letter cited no valid reason for her firing.

Discrimination against women was especially common in promotions to management positions. Persons with disabilities also faced discrimination with respect to employment and occupations. The ILO noted that legislation allowing for the removal of persons with disabilities from some senior positions appeared to reflect an inherent assumption that a person is incapable of holding such a position if they have any form of disability, and encouraged the government to prohibit explicitly discrimination against persons with disabilities in employment.

e. Acceptable Conditions of Work

There is a national minimum wage which was below the national poverty income level. According to the Asian Development Bank, 40 percent of all Ni-Vanuatu and 50 percent of the rural population had incomes below the national poverty line. There were no reports that standards regarding minimum wage, hours of work, or safety standards were not respected in the informal sector.

The law provides for a 44-hour maximum workweek, and overtime should not exceed 56 hours per week. Workers must receive more than three days paid annual holidays. The law provides for a premium of 50 to 75 percent more than the normal rate of pay for overtime work.

The law includes provisions for occupational safety standards, which are up-to-date and appropriate for the main sectors. Legal provisions on working conditions and safety standards apply equally to foreign workers and citizens in the formal sector. Safety and health provisions were inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing. Workers are able to remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked resources to protect employees in such situations effectively.

Enforcement of the law was not fully adequate, although there were sufficient inspectors attached to the Department of Labor to enforce compliance. Penalties for violating the law were sufficient to deter violations. The labor commissioner said that most companies complied with the wage rate and inspectors conducted routine inspections to determine that minimum wages were paid.

Many companies in logging, agriculture, construction, and manufacturing did not provide personal safety equipment and standard scaffolding for workers.