

# VANUATU

## EXECUTIVE SUMMARY

Vanuatu is a multiparty parliamentary democracy with a freely elected government. Parliament reelected the current head of government, Prime Minister Sato Kilman, in June after a court had annulled his December 2010 appointment to the same position. The most recent national elections, held in September 2008, were considered generally free and fair. Security forces reported to civilian authorities.

Violence against women remained one of the most prominent human rights abuses during the year.

The government continued to address human rights challenges including police violence, poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

Government efforts to prosecute and punish abuses by the police were minimally effective.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings. In April a commission of inquiry was established to investigate why the findings and recommendations of the coroner's report into the death of escaped prisoner John Bule were not implemented, but its appointment was revoked two weeks later after the Vanuatu police force challenged the coroner's report in the court of justice. The challenge was pending before the court at year's end. In 2010 authorities released the report of a coroner's inquest conducted by New Zealand Justice Nevin Dawson in Bule's case. The report highlighted police abuse by the Vanuatu Mobile Force (VMF), a police paramilitary unit, and called for an inquiry into Bule's death and a scaling down of the VMF's powers. The report noted instances of intimidation during the inquest, including a death threat against Dawson from a senior VMF officer. Bule died after sustaining multiple injuries while in police custody following his recapture in 2009.

## **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, there were reports of police and correctional officer abuse of criminal suspects and prison inmates, respectively.

### **Prison and Detention Center Conditions**

Conditions at the three prisons in Port Vila improved only slightly during the year with foreign donor funding but remained below international standards. Prisoners had access to potable water. Deaths of prisoners while incarcerated were not prevalent.

Following the 2008 release of a report detailing prisoner complaints about poor conditions at the main Port Vila prison, and a subsequent 2009 court order directing the public prosecutor to catalogue prisoner injuries and illnesses, only one case was referred to the court, without resolution.

At year's end the prison system held a total of 183 inmates, including 158 convicted prisoners and 25 pretrial detainees. There were two female prisoners and three male juvenile prisoners (defined by law as persons under age 16). Although there is no legislated maximum capacity for existing prison facilities, the total prison capacity during the year was 210. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population.

According to the center manager of the Correctional Services Department, the existing facilities, especially in Port Vila, made total separation of juveniles from adults difficult, and in some cases juveniles were held with adults during the year. However, he stated that the number of juveniles in custody remained very low.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Office of the Ombudsman is mandated to investigate complaints of human rights violations; however, no

investigations related to prison conditions were undertaken during the year. Supreme Court justices regularly visited prisons to monitor conditions.

The government permitted prison monitoring visits by independent human rights observers. During the year representatives from the UN High Commissioner for Human Rights visited the prisons in Port Vila.

The Ombudsman Commission is not authorized to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; the status and circumstances of confinement of juvenile offenders; and improvements to pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offenses. The commission can investigate specific complaints received from prisoners relating to such matters, but it did not undertake any such investigations during the year.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

The national police maintain internal security, and its paramilitary VMF comprise the country's entire externally focused military force. The commissioner of police heads the police force, including a police maritime wing, the paramilitary VMF, the Immigration Department, the National Disaster Management Office, and the National Fire Service. Police effectiveness was hampered by a lack of resources and involvement in ancillary activities such as search and rescue operations, immigration, and national disaster response.

Civilian authorities were hampered by a lack of resources in maintaining effective control over security forces and did not have effective mechanisms to punish abuse or corruption. There were allegations of police impunity, in particular with regard to the VMF. The report of a coroner's inquiry into the 2009 death in custody of recaptured prison escapee John Bule (see section 1.a.) characterized the VMF as a force with a "culture of violence" that considered itself "above the law."

The Office of the Ombudsman is mandated to investigate complaints of security force abuses.

During the year foreign assistance continued to address some of the problems confronting the force. Actions taken under the assistance projects included recruitment of new officers, establishment of additional police posts on outer islands and in rural areas, and police building repairs and maintenance. Under a five-year capacity-building project begun in 2006, seven Australian Federal Police officers were attached to the Vanuatu Police Force as advisors.

### **Arrest Procedures and Treatment While in Detention**

A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. Detainees were allowed prompt access to counsel and family members. The Public Defender's Office provided counsel to indigent defendants.

Pretrial Detention: Pretrial detainees constituted nearly one-eighth of the total 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. Years could pass before a case was brought to trial.

### **e. Denial of Fair Public Trial**

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

### **Trial Procedures**

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right to counsel, a right to judicial determination of the validity of arrest or detention, a right to question witnesses and access government-held evidence, and a right of appeal.

The law extends these rights to all citizens. The Public Defender's Office provides free legal counsel to indigent defendants.

### **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; however, police were often reluctant to enforce domestic court orders, particularly when the orders concerned their own family or clan members. This resulted in the reluctance of women to lodge complaints with the police.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Violence and Harassment: In March the minister for public utilities and infrastructure, Harry Iauko, was fined 15, 000 vatu (approximately \$164) after pleading guilty to aiding and abetting the January 2009 assault on Marc Neil-Jones, publisher of the *Vanuatu Daily Post* newspaper.

#### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

## **Academic Freedom and Cultural Events**

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

### **b. Freedom of Peaceful Assembly and Association**

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

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

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

## **Protection of Refugees**

Access to Asylum: The country's law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum.

Temporary Protection: According to the immigration compliance officer, at year's end three Sri Lankans and one Indonesian from West Papua remained in Port Vila awaiting resettlement in a third country.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

### **Elections and Political Participation**

Recent Elections: The most recent national parliamentary elections were held in September 2008; they were considered generally free and fair. Allegations of bribery and electoral fraud were raised against then foreign minister Bakoa Kaltongga, two other politicians, and a former ambassador to the UN. The allegations included bribery of electoral officials and discrepancies in voting rolls that led to some voters being turned away from polling booths. According to the chief electoral officer, 13 petitions were filed alleging irregularities in the elections. Of these, six were upheld in court, resulting in three recounts and three by-elections. Of the two petitions before the Supreme Court during the year, one was dismissed and one remained pending a decision at year's end.

Participation of Women and Minorities: Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There was one woman in the 52-member parliament. No women served in the cabinet. The solicitor general--the second-ranking official (under the attorney general) in the Office of the State Law--was a woman.

A small number of ethnic minorities (non-Melanesians) served in parliament and in the cabinet, including as the minister of economy.

### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

There were reports of government corruption during the year. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times hampered the effective operation of the civil service.

The ombudsman reported that, while police corruption sometimes occurred, his office received no specific complaints during the year.

Members of parliament and elected members of provincial governments are subject to a leadership code of conduct, which includes financial disclosure requirements. However, the Office of the Ombudsman confirmed that some officials did not comply with these disclosure requirements. The Ombudsman's Office and Auditor General's Office are key government agencies responsible for combating government corruption.

No law provides for public access to government information. In practice the government's response to requests for information from the media was inconsistent.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations 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: The president appoints a government ombudsman to a five-year term in consultation with other political leaders. Since its establishment the Ombudsman's Office has issued a number of reports critical of government institutions and officials. However, it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings. Cases reported to the ombudsman and deemed to be valid were referred to the Public Prosecutor's Office for further action, but there were few prosecutions.

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

The law prohibits discrimination on the basis of race, place of origin, language, or sex; however, women remained victims of discrimination in the tradition-based society.

#### **Women**

Rape and Domestic Violence: Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters.



Violence against women, particularly domestic violence, was common, although no accurate statistics existed. Most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse.

The Family Protection Act (FPA), which entered into force in 2009, covers domestic violence, women's rights, children's rights, and family rights. Violators could face prison terms of up to five years or a fine of up to 100,000 vatu (approximately \$1,095) or both. In 2010 the government established a Family Protection Unit (FPU) at police headquarters in Port Vila to deal with issues addressed by the FPA. According to the FPU, during the year it issued 302 protection orders. A protection order does not require proof of injury; as long as there is a threat of violence, police can issue an order.

There were no government programs to address domestic violence, and media attention to the abuse was limited. As part of the New Zealand government's regional Pacific Prevention of Domestic Violence Program, Radio Vanuatu had a bi-monthly program for police to raise awareness and discuss issues relating to domestic violence. The Department of Women's Affairs played a role in the process for implementing the Family Protection Act. The Police Academy provided training in the handling of domestic violence and sexual assault cases. Police have a "no drop" policy under which they do not drop reported domestic violence cases; if the woman later wishes to withdraw her complaint, she must go to court to request that it be dropped.

Churches and nongovernmental organizations (NGOs) operated facilities for abused women. NGOs also played an important role in educating the public about domestic violence, but did not have sufficient funding to implement their programs fully.

Sexual Harassment: Sexual harassment is not illegal and was a problem.

Reproductive Rights: According to the country's family planning policy guidelines, couples and individuals have the right to decide freely the number, spacing and timing of their children. This right was generally upheld in practice. According to the national reproductive health coordinator, the Ministry of Health provides training on, and works to raise awareness of, human rights and gender equity with regard to reproductive health services and behavior. The country is predominantly a patriarchal society, and sometimes decisions on family planning and contraceptive use were made by the man in the relationship without taking the

woman's views into consideration. According to country indicators published by the Population Reference Bureau, an estimated 38 percent of married women ages 15-49 used some form of contraception, with 37 percent using modern contraceptive methods. The ministry cooperated with the Department of Labor on the Male Involvement in Reproductive Health Project, which worked to sensitize men in the workforce about reproductive health issues. A regional adolescent health and development program funded by the UN Population Fund worked with schools to strengthen school-based clinics and to incorporate counseling and services.

The country's geographical layout in relation to service delivery points, both between islands and inland, sometimes made it difficult to obtain access to contraception; essential prenatal, obstetric, and postpartum care; and treatment of sexually transmitted infections, including HIV. Obstacles included lack of adequate roads and the high cost of transport to reach health-care facilities. Women were equally diagnosed and treated for sexually transmitted infections.

Discrimination: While women have equal rights under the law, they were only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. Although the law does not prohibit women from owning or inheriting land, in practice women generally were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women.

In practice women experienced discrimination in access to employment, credit, and pay equity for substantially similar work. The Employment Act prohibits women from working in certain sectors of the economy at night. Vanuatu Transparency Limited and the South Pacific Commission, through a program of the Pacific Regional Rights Resource Team, worked to increase awareness of women's legal rights. The government, with the assistance of the UN Development Program, ran the Vanuatu Women's Development Scheme (VANWODS). VANWODS provided poor and disadvantaged women with microloans to start income-producing activities, with the goal of making these activities progressively more self-financing. 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 and funding.

## Children

Birth Registration: Citizenship is derived through one's parents. Births are usually registered immediately unless the birth has taken 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 there were significant problems with regard to education. Although the government stated a commitment to a free and universal education policy, school fees served as a barrier to education.

School attendance is not compulsory. Boys tended to receive more education than girls did. Although attendance rates were similar in the early primary grades, fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate.

Child Abuse: Child abuse was not believed to be extensive; however, 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.

Children generally were protected within the traditional extended family system. Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

Child Marriage: The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In rural areas and some outer islands, some children married at younger ages.

Sexual Exploitation of Children: Some children under age 18 were engaged in prostitution.

Section 97 of the penal code addresses statutory rape. It provides for a maximum legal penalty for violators of five years' imprisonment if the child is over age 12 but under age 15, or 14 years' imprisonment if the child is under age 12.

Child pornography is illegal. The maximum penalty is five years' imprisonment if the child is age 14 or older, and seven years' imprisonment if the child is under age 14.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **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**

See the Department of State's *Trafficking in Persons Report* at <http://www.state.gov/j/tip>.

### **Persons with Disabilities**

There is no law specifically prohibiting discrimination against persons with physical, sensory, intellectual, or mental disabilities. There is a national policy designed to protect the rights of persons with disabilities, but the government did not implement it effectively. There were no special programs to assist persons with disabilities and no legislation mandating access to buildings, information, and communications for them. Their protection and care were left to the traditional extended family and NGOs. In practice most buildings were not accessible to persons with disabilities. Due to a high rate of unemployment, few jobs were available for persons with disabilities. Persons with mental illness generally did not receive specialized care; members of their extended families usually attended to them.

### **National/Racial/Ethnic Minorities**

Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although prime real estate was increasingly leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers may legally grow kava, a native herb, for export.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

There were no reports of societal violence or discrimination against persons based on sexual orientation or gender identity.

### **Other Societal Violence or Discrimination**

In 2010 a group of villagers killed two brothers whom they accused of using sorcery to cause the deaths of two staff members of a secondary school in 2009. Police arrested five suspects, who were later released on bail. Two of the suspects jumped bail before questioning. At year's end they were still at large, and police were still investigating the matter.

There were no reports of societal violence or discrimination against persons based on HIV/AIDS status.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides all workers with the rights to organize and join unions, to strike, and to collective bargaining. Unions require government permission to affiliate with international labor federations, but the government has not denied any union such permission. The law prohibits retaliation for legal strikes. 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. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. While the law does not require union recognition or reinstatement, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor. The government effectively enforced applicable laws without lengthy delays and appeals.

Freedom of association and the right to collective bargaining were respected in practice.

Unions exercised the right to organize and bargain collectively in practice.

There were no known employee complaints of such discrimination received by the labor department during the year.

## **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits children under age 12 from working outside family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. However, the Department of Labor did not effectively enforce these laws. There were four inspectors within the labor department who were also responsible for cases of child labor. The department confirmed that there were no reported cases of child labor during the year and apart from verbal awareness done by the department no other action was taken during the year to address child labor. In practice children were employed in agriculture and some in commercial sexual exploitation.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

## **d. Acceptable Conditions of Work**

The minimum wage was 26,000 vatu (approximately \$285) per month. The minimum wage was enforced effectively. According to Asian Development Bank recent estimates 40 percent of all Ni-Vanuatu and 50 percent of the rural population have incomes below the international poverty line. However, most families were not dependent solely on wages for their livelihood, supplementing their incomes through subsistence farming.

Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act provides for a premium of 50 to 75 percent over the normal rate of pay for overtime work. Maternity leave pay provided a full salary for up to 12 weeks.

The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. Laws on

working conditions and safety standards apply equally to foreign workers and citizens.

However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the four inspectors attached to the Department of Labor could not enforce the law fully. The labor department confirmed that some companies in these sectors were paying workers below the minimum wage rate and making employees work long hours without paying overtime. Many companies in these sectors did not provide personal safety equipment and standard scaffolding for workers. The government responded by issuing improvement notices to companies and drafting an Occupational Health and Safety Bill which will include harsher penalties for non-compliance to health and safety laws.