

VANUATU 2018 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 2017. 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.

Human rights issues included minimal progress in reducing the worst forms of child labor.

The government made efforts to prosecute and punish abuses by officials, although some 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 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

Overcrowding and inadequate sanitary conditions in prisons created harsh conditions. A media report in May described eight men sleeping in a cell measuring approximately four feet by 20 feet and unhygienic conditions.

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

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The Vanuatu Police Force (VPF), with approximately 600 officers, 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.

Civilian authorities did not always 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 between the VMF and VPF and undermined policing capacity. These political and legal battles continued, and in September the police commissioner was suspended because of "administrative issues." As of October an acting interim commissioner was in place.

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, and may also prosecute cases in court. As of October the PSU had received 50 complaints, nearly half the number of complaints received in previous years. Of those 50, 34 were dealt with internally, and 16 were referred to the court.

In January the minister for internal affairs suspended Ephraim Kalorib, a senior police officer allegedly involved in an assault on the husband of a government official. Kalorib was also charged under the law.

Foreign assistance designed to address some of the problems confronting the security forces continued. Under the Vanuatu-Australia Police Project, the number of Australian Federal Police advisers working full time with the VPF increased from three to four.

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 law 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 (\$445) per year.

Pretrial Detention: Pretrial detainees constituted approximately one-quarter 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.

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 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. The government, including police, generally complied with court decisions on human rights violations. Reports continued that police sometimes did not promptly enforce court orders related to domestic violence (see section 6, Women).

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

The constitution prohibits such actions, and there were no reports 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 and judiciary and a functioning democratic political system combined to promote freedom of speech and press. In April international media were barred from entering the Luganville wharf while trying to report on rumors the Chinese were considering the wharf for a military base.

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. According to the International Telecommunication Union, approximately 24 percent of the population had access to the internet in 2016.

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 August the prime minister ordered a mandatory evacuation of 10,000 persons threatened by a volcanic eruption on the island of Ambae and urged resettlement in evacuation centers on nearby islands. As of November no one had been allowed to return to Ambae due to the ongoing threat from the volcano. Evacuees complained that it was difficult to earn an income or access food and water. According to

media reports, nearly 500 households were trying to create new, permanent “second” homes on the island of Maewo, but there were issues with negotiating land titles. There were similar evacuations from the island in 2017, and those displaced were able to return to their homes after approximately one month.

Protection of Refugees

Access to Asylum: The law does not provide for granting 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 affect results significantly. Media covered the election freely, and voters expressed their preference without fear of intimidation or coercion.

Political Parties and Political Participation: Political parties operated 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 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. In May the Vanuatu Council of Women formed a political party aimed at achieving gender equality in parliament.

The law allows municipal governments to reserve council seats for women, and Port Vila and Luganville have done so. In March, Port Vila 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 made some efforts to implement the law. 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. The Ombudsman's term expired in December 2017, and as of October a permanent replacement had not been announced.

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 2017 the Ombudsman Commission recommended that Deputy Prime Minister Bob Loughman be prosecuted for breaching the leadership code by trying to exercise undue influence over the member selection process for the Vanuatu Institute of Teacher Education. As of September the Public Prosecutor's Office had not acted on the recommendation.

In September an official from the Department of Strategic Management was sentenced to two years in prison for misappropriating 5.6 million vatu (\$49,800) in public funds.

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.

In September, Kalo Seule, a sitting member of parliament, was convicted of tax evasion for not declaring income from his personal business. In October he did not appear for a court hearing, and an open arrest warrant was issued.

Section 5. Governmental 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. Investigating alleged human rights abuses is among the Ombudsman's Office's responsibilities. The office, however, does not have the power to prosecute, and the findings of its investigations are not admissible 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. 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 (\$890), or both. The law also calls for police to issue protection orders for as long as there is a threat of violence.

Police were frequently reluctant to intervene in what they considered domestic matters. There is, however, a "no drop," evidence-based policy under which police are not supposed to drop reported domestic violence cases. The Police Academy and the New Zealand government provided training for police in responding to domestic violence and sexual assault cases.

In July a man was sentenced to nine years' imprisonment for raping a woman on several occasions in 2015.

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. According to a 2017 report from Correctional Services, more than 60 percent of prison inmates were charged with sex-related offenses. Most cases, including rape, were not reported to authorities because women, particularly in rural areas, were ignorant of their rights or feared further abuse.

In one example in July, a man attending court after his wife lodged a complaint with police escaped from correctional services officers and stabbed his wife twice in the chest. She survived the attack.

There were no countrywide government information programs designed to address domestic violence. Although media attention to domestic violence and abuse was generally limited, the killings of two women by their partners in Port Vila in 2017 received significant attention.

The Department of Women's Affairs played a role in implementing family protection. 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 in frequency 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.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

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 equal to those of men. The law, however, does not allow citizen mothers alone to transmit citizenship to their children.

Although the law does not prohibit women from owning or inheriting property or land, tradition generally bars women from land ownership or property inheritance.

Women were 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. 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, but not a citizen mother, may transmit citizenship to his child regardless of where the child is born. A child born of a citizen mother may apply for citizenship at age 18. This lack of citizenship at birth can lead to a child being denied passports and other 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 its commitment to free and universal education, school fees and difficult geography were barriers to school attendance for some children.

School attendance is not compulsory. In general boys received 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: The country does not have a legal definition of child abuse, but the law addresses sexual abuse of children and states that parents must protect children from violence within the family setting. The national child protection policy recognizes the government's responsibility to protect all children from violence, abuse, exploitation, and neglect and includes the need to introduce a child protection bill.

NGOs and law enforcement agencies reported increased complaints of child abuse, incest, and rape of children in recent years. A 2017 UNICEF report stated that eight of 10 children between ages two and four experienced violent discipline at home. It also stated that one in three children experienced severe physical punishment at home and that sexual abuse before the age of 15 affected three of 10 children. The government did little to combat the problem.

In April, for example, a six-year-old girl was abducted from her home, raped, and killed. As of October a suspect was in jail awaiting trial.

Early and Forced Marriage: The legal age for marriage is 21 years, although boys as young as 18 and girls as young as 16 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 13 but younger than 15, or 14 years' imprisonment if the child is younger than 13. 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. There were no criminal cases dealing with pornography or child sexual exploitation during the year.

The maximum penalty for publishing child pornography is five years' imprisonment and for possession, two years' imprisonment.

Under the law, the age of consensual sex is 16 regardless of sex or sexual orientation. Some children younger than 18 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

Anti-Semitism

The country's Jewish community consisted of 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 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. Access to services through the Ministry of Health's mental health policy was very limited. Schools were generally not accessible to children 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.

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 lesbian, gay, bisexual, transgender, or intersex (LGBTI) persons. LGBTI groups operated freely, but there are no antidiscrimination laws to protect them. In a positive sign demonstrating freedom of association, in May 2017 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, although there were no documented cases during the year. 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 workers to form and join independent unions, strike, and bargain collectively. This right is not extended to the police force or prison service. While the law does not require union recognition by the employer, it prohibits antiunion discrimination once a union is recognized. Unions are required to register with the government and to submit audited statements of revenue and expenditure to the registrar annually. 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 but does not explicitly require reinstatement for workers fired for union activity. Unions are independent of the government but there were instances of government interference in union activities. The law requires unions to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. A union must also show that it has attempted negotiation with the employer and reported the matter to the industrial registrar for possible mediation. 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.

Complaints from private sector workers about violations of freedom of association are referred to the Department of Labor for conciliation and arbitration. The Public Service Commission handles complaints of violations from public sector workers. Complaints of antiunion discrimination must be referred to the Department of Labor. According to the commissioner for labor, the department has a dispute resolution process to manage these grievances.

The government effectively enforced applicable law without lengthy delays or appeals. Resources were limited, and investigations 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, but the right to collective bargaining was not explicitly laid out in the law. During the year the Airport Workers Union and the Teachers Union both issued strike notices demanding that the government review their working conditions. In both cases,

the government and unions were able to come to an agreement before any strike action.

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 law excludes from the definition of forced labor any work or service that forms part of the national civic obligations of citizens, but 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 that forced labor occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

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

The government did not release enough information related to its enforcement of child labor law during the reporting period to determine whether the law was effectively enforced. The Labor Department confirmed there were no reported cases of illegal child labor during the year, and department action to address child labor was limited to informal presentations on the topic. There were no reports of government stopping child labor activities or imposing administrative barriers.

According to the National Child Protection Policy, the country has no data to determine the nature and prevalence of child labor. The Department of Labor stated, however, that most child workers were involved in logging activities in the country. Logging activities expose children to hazardous activities including having no proper protective equipment to operate machines, no proper training, and no regular medical checkups. Children were also involved in handling or

lifting heavy loads. There were also reports of a lack of regular inspection from forestry and other appropriate government agencies to provide appropriate guidance to the workers.

There were no credible reports of children employed in agriculture illegally, although legal employment of children in hazardous work could constitute a worst form of child labor. 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 constitution prohibits employment discrimination with respect to race, religion, political opinion, traditional beliefs, place of origin or citizenship, language, or sex.

The government did not effectively enforce prohibitions on employment discrimination against women, which was widespread. The penalty for violation of this prohibition is a maximum fine of 10,000 vatu (\$89) or a prison term of up to three years.

Discrimination against women was especially common in promotions to management positions. Persons with disabilities also faced discrimination with respect to employment and occupations. The International Labor Organization noted that legislation allowing for the removal of persons with disabilities from some senior positions appeared to reflect an 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

In January the minimum wage was raised from 170 vatu (\$1.50) to 200 vatu (\$1.78) per hour. For full-time work, this would total 1,600 vatu per day (\$14.20), above the national poverty income level of 370 vatu (\$3.30) per day. In April a World Bank report based on the 2010 household income and expenditure survey indicated that 12.7 percent of the population lives below the national poverty line.

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. Application of safety and health provisions were inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing. While workers have the legal right to remove themselves from dangerous situations, the government did not protect workers in this situation.

Enforcement of the law was inadequate, especially in the informal sector. The labor commissioner stated that most companies complied with the wage rate and inspectors conducted routine inspections to determine that minimum wages were paid. The government did not receive any formal complaints of violations regarding minimum wage, hours of work, or safety standards during the year.

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