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U.S. Department of State

Vanuatu Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

VANUATU

Vanuatu, a small South Pacific island nation of approximately 170,000 people which was jointly administered by Britain and France prior to its independence in 1980, has a parliamentary form of government with a 50-member Parliament, a Prime Minister, and a President. The latter's powers are largely ceremonial, except when acting on the advice of the Council of Ministers. Political legitimacy is based on majority rule. The courts are normally independent of executive interference.

The civilian authorities normally control the small police force and the paramilitary Vanuatu Mobile Force (VMF). In the wake of a mutiny by elements of the VMF in October, 1996, the mutineers were arrested, tried and sentenced. Seven of them were dismissed from the VMF by the Police Service Commission. The Government accepted recommendations placing the VMF more firmly under the operational control of the Police Commissioner.

Subsistence and small-scale agricultural production and fishing support more than 80 percent of the population. Copra, cocoa, and beef cattle are the main cash crops. The service sector--government, tourism, and an offshore financial center--provides most formal employment and represents the largest component of the country's gross domestic product.

Government control over much of the media, attacks on an outspoken ombudsman, together with discrimination and violence against women, were the country's major human rights problems.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Constitutional provisions against torture and cruel, inhuman, or degrading treatment are observed in practice and enforced by the courts. The law provides that prisoners shall have recourse to the Ombudsman, a constitutional position.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors, if requested.

d. Arbitrary Arrest, Detention, or Exile

There were no reports of arbitrary arrests. Arrest is by warrant. The Constitutional provision that suspects must be informed of the charges and given a speedy hearing before a judge is observed in practice. There is no exile.

e. Denial of Fair Public Trial

The courts are normally free of military or executive interference. Most routine legal matters appear before magistrate's courts. There is also a Supreme Court, and above the Supreme Court an Appeals Court with three judges, two of whom are appointed by the President and chosen from among supreme court judges in other south Pacific nations as required.

The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, presumption of innocence until guilt is proven, prohibition against double jeopardy, the right of judicial determination of the validity of arrest or detention, and appeal to the Supreme Court. However, the executive has tried to pressure the largely expatriate judiciary in cases with political implications.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

There were no reports of arbitrary interference with privacy, family, home, or correspondence.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press; however, these provisions have not always been honored in practice. The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station confined

to the capital, Port Vila, which provides English and French news service three times a week. In late 1994, an independent weekly, which has since expanded into semiweekly editions, began publishing. Opposition political parties and groupings occasionally publish newsletters.

In July the Council of Ministers began moves, which are currently under court review, to remove Ombudsman Marie Noel Ferrieux Patterson, who had angered some politicians by continued reporting of their corruption and malfeasance. Two weekly newspapers, the Vanuatu Weekly Hebdomadaire and the Vanuatu Trading Post, covered the ongoing controversy.

Vanuatu governments have not been as concerned over media reports directed to external audiences. PACNEWS, a Pacific regional news agency located in Vanuatu since 1994, continued to transmit stories throughout the region even when they included criticism of the country's leaders. Correspondents for international media are also allowed to report without interference.

The Government respects academic freedom. Vanuatu has three institutions of higher education--a teachers college, an agricultural school, and an annex of the University of the South Pacific.

b. Freedom of Peaceful Assembly and Association

Permits must be obtained to hold public demonstrations and rallies; they are routinely granted.

The Government does not restrict the forming of political parties and other groups.

c. Freedom of Religion

The law provides for freedom of religion, and the Government respected it in practice. Missionaries of various Christian denominations work without restriction. The Government apparently has not to enforce the 1995 Religious Bodies Act, which the President refused to sign on constitutional grounds. The act gives the Government the right to register and potentially to control the activities of religious organizations.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

All citizens are free to travel internally and externally and to return from abroad without restrictions.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

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

The Constitution provides for parliamentary elections every 4 years, through which citizens can freely change their government. Parliamentary majorities have been unstable, with legislators spending much time and energy accumulating support for votes of no confidence on the one hand and fending them off on the other. None of the three main parties gained a majority in the general elections held in 1995. The present Government, a coalition led by Prime Minister Serge Vohor, assumed office in October 1996 after two earlier coalitions had been toppled by no-confidence votes. Since that time, Vohor has shuffled his cabinet several times. Although the President dissolved Parliament on November 27 and called for new elections on January 20, 1998, the Appeals Court is reviewing whether the dissolution of Parliament was constitutional. The prospects for elections remained uncertain at year's end.

While outside observers generally consider the November 1995 voting to be fair, the government's influence on the media prevented opposition parties from fully publicizing their views. That government, as well as successor governments, have also been accused of politically biased employment practices.

Traditional attitudes, in which men are dominant and women are frequently limited to customary family roles, hamper women from taking a more active role in economic and political life. One Member of Parliament is a woman, who also served briefly as a cabinet minister in the current government. The Ombudsman is a woman.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no restrictions on the formation of local human rights organizations, and Vanuatu's first, the Human Rights Forum, was founded in 1994.

In July the Council of Ministers began moves, which are currently under court review, to remove Ombudsman Marie Noel Ferrieux Patterson, who had angered some politicians by continued reporting of their corruption and malfeasance (see Section 2.a.). In November Parliament repealed the Ombudsman Act. The President refused to sign the bill into law until the Supreme Court had reviewed it. If the repeal of the act is upheld, the current Ombudsman would remain in office until a new act is drafted and passed.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1980 Constitution provides fundamental rights and freedoms to "all persons...without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language, or sex." Despite constitutional and legal protections, women remain victims of discrimination in this tradition-based society. Due to high rates of unemployment, there are few jobs available to the disabled.

Women

Violence against women, particularly wife beating, is believed to be common, although no accurate statistics exist. Courts occasionally prosecute offenders using common law assault as a basis for prosecution since there are no specific laws against wife beating. However, most cases of violence against women, including rape, go unreported because women, particularly in rural areas, are reluctant to report them for fear of further abuse. In addition police are frequently reluctant to intervene in what are considered to be domestic matters.

While women have equal rights under the law, they are 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. In announcing Vanuatu's ratification of the U.N. Convention on Elimination of all Forms of Discrimination Against Women (CEDAW) at the 1995 U.N. Conference on Women in Beijing, the then-Deputy Prime Minister stated that it would take time to implement the laws giving equal rights to women.

The majority of women enter into marriage through "bride-price payment," a practice that encourages men to view women as property. Women are also inhibited by tradition from owning land, and at least one women's advocate believes this limitation serves to underpin their secondary status. Many female leaders view village chiefs as a major obstacle to attaining social, political and economic rights for

women. The National Council of Women organized seminars prior to the November 1995 general elections to increase women's awareness of their political rights.

Children

Although the Government has made education a priority, access to education is limited and school attendance is not compulsory. Children are protected within the traditional extended-family system. Members of the extended family, particularly paternal uncles, play an active role in a child's development. As a result, virtually no children are homeless or abandoned. There is no societal pattern of abuse, although cases of child abuse are occasionally reported.

People With Disabilities

There is no known governmental or national policy on the disabled and no legislation mandating access for them. Their protection and care is left to the traditional extended family and to voluntary nongovernmental organizations.

National/Racial/Ethnic Minorities

Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans are generally concentrated in two towns and on a few plantations; they experience discrimination with regard to land ownership. There is no evidence to suggest a pattern of ethnic discrimination in the provision of the limited basic services which the Government provides.

Section 6 Worker Rights

a. The Right of Association

The law provides workers with the right to organize unions. Unions may not affiliate with international labor federations without government permission.

Approximately 29,000 persons participate in the formal economy as wage earners. There are five trade unions. The unions are grouped under an umbrella organization, the Vanuatu Council of Trade Unions, a member of the International Confederation of Free Trade Unions. The trade unions are independent of the Government and ran a number of candidates under the Labor Party banner in the November 1995 general elections, although no Labor candidate was elected to Parliament or received more than a small percentage of the votes.

The high percentage of the population still engaged in subsistence agriculture and fishing deters extensive union activity. In addition membership in the Vanuatu Public Servants Union fell dramatically following the Government's wholesale dismissal of hundreds of full-time public servants during a protracted general strike in 1994. The Supreme Court in February 1994 ruled that the union had not complied with its own rules when it undertook the general strike and declared the strike illegal. Combined union membership in the private and public sectors reportedly has fallen from more than 4,000 to less than 1,000 in the aftermath of the 1994 strike.

The law prohibits retribution if the strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, violations would be handled by the Public Service Commission.

In August 1995, Parliament passed a law requiring unions to give 30 days' notice of intent to strike, with a list of the names of intending strikers.

There was no significant strike activity in 1997.

b. The Right to Organize and Bargain Collectively

Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a 3-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrate's court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. Unions and management, however, generally reach agreement on wages without having to refer the matter to arbitration. Complaints of antiunion discrimination are referred to the Commissioner of Labor. While the law does not require union recognition, once a union is recognized, it does prohibit antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including forced and bonded labor by children, and there were no reports that either adults or children were subject to conditions of forced, bonded, or compulsory labor.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assist their parents. There were no reports of forced or bonded labor by children, which is prohibited by law (see Section 6.c). Employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, for example, restrictions on employment in the shipping industry and on night-time employment. The Labor Department effectively enforces these laws.

e. Acceptable Conditions of Work

Vanuatu has a legislated minimum wage, effectively enforced by the Labor Department. In February 1995, it was raised to a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The previous minimum wage was approximately \$93 for rural workers and \$107 (13,200 vatu) for urban workers. The minimum wage would not support an urban family living entirely on the cash economy. Most families are not dependent solely on wages for their livelihoods.

Various laws regulate the rights to sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek, with at least one 24-hour rest period weekly. Vanuatu's Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the 1987 safety and health legislation is inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department is hard pressed to enforce the act fully. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

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