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1999 Country Reports on Human Rights Practices

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VANUATU

Vanuatu, a small South Pacific island nation of approximately 183,000 persons that was administered jointly by Britain and France prior to its independence in 1980, has a parliamentary form of government with a 52-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 normally are independent of executive interference.

The civilian authorities control the small police force and its paramilitary wing, the Vanuatu Mobile Force (VMF). Under current regulations, the police commissioner commands the entire force, including the VMF.

Subsistence and small-scale agricultural production and fishing support more than 80 percent of the population. Nonsubsistence agricultural products include copra, cocoa, and beef cattle. 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.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Poor prison conditions, an extremely slow judicial process, and violence and discrimination against women were the 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 usually are observed in practice and enforced by the courts.

In November the presiding magistrate dismissed the case against 18 police officers charged with intentional assault of rioters in Port Vila in January 1998. The public prosecutor has appealed to the Supreme Court to reinstate the case.

Prison conditions are poor. As a result of criticism of prison conditions following the 1998 riots, the Government closed the main prison in Port Vila, moved the male prisoners there to a smaller, somewhat better constructed building, and arranged for the incarceration of female prisoners in one apartment in the unmarried policewomen's barracks. The prison on Tanna Island was painted and cleaned by a church youth group using materials donated by local companies. As of the beginning of September, there were 45 male prisoners in the country (which is the average prison population under normal conditions); there were no female prisoners. The prison buildings in Port Vila and Luganville are in poor condition. Apart from the dilapidated state of the prison buildings, prisoners appear to be treated humanely.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and there were no reports of such arrests. Arrest is by warrant.

The constitutional provision that suspects must be informed of the charges against them and given a speedy hearing before a judge is observed in practice.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the courts are normally free of military or executive interference. However, in 1996 the Government dismissed the foreign Chief Justice prior to the end of his appointment. In 1998 the Acting Chief Justice, who argued that his predecessor's dismissal constituted unconstitutional interference with the judiciary, sponsored a "joint declaration" of judges and magistrates on "the basic principles on the independence of the judiciary" to remind the executive branch of the principle of judicial independence. There were no reports of interference with the judiciary by the present Government.

Magistrates' courts deal with most routine legal matters. 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, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to an appellate court.

Judges, prosecutors, and the police all complain about large backlogs of cases in the courts due to a lack of resources. For example most of the members of the VMF accused of kidnaping public officials in the course of a mutiny in 1996 still are awaiting trial. Procedures were changed during the year to allow the public prosecutor to present new cases to the magistrates more frequently, but the limited number of qualified judges and prosecutors remains a serious problem.

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 of the press, and the Government respected these provisions in practice during most of the year. In September reporters for the government-owned radio station were dismissed, and the editor of the station was threatened with dismissal, in connection with stories about the then-ruling coalition. The reporters eventually were reinstated.

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. There is one independent newspaper published semiweekly and another weekly newspaper published by a political party.

Throughout the year, both the government-owned and the independent press reported criticisms of political leaders freely and apparently without hindrance. Some individual politicians and their supporters are sensitive to public criticism and sometimes threatened the media, but without any apparent effect on press freedom. Such incidents in April and September resulted only in further embarrassing press coverage for the critics. Correspondents for international media also are 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

The Constitution provides for the freedoms of assembly and association, and the Government respects these rights in practice. Permits must be obtained to hold public demonstrations and rallies; they are granted routinely.

The Government does not restrict the formation of political parties or 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 1995 Religious Bodies Act, which requires religious organizations to register with the Government, was never signed by the President and was never enforced, although some churches registered under the act voluntarily. Although the act has not been repealed by Parliament, and technically remains in force, it remains dormant and its constitutionality is in question.

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

All citizens are free to travel internally and to leave and return to the country 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 confidence. The last national elections were held in March 1998. In November 1999, Barak Sope of the Melanesian Progressive Party assembled a parliamentary majority, and formed the Government.

Outside observers consider the 1998 elections to have been generally free and fair. A total of 216 candidates contested 52 seats. Voter turnout was 63.6 percent.

Women are underrepresented in government and politics. Traditional attitudes, in which men are dominant and women frequently are limited to customary family roles, hamper women from taking a more active role in economic and political life. Six women, including the sole sitting female member, ran for parliament in 1998; none were elected.

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. The Vanuatu Human Rights Education Association no longer functions. However, other nongovernmental organizations (NGO's), such as the National Council of Women and the Family Health Association, include human rights education as part of their programs.

Angered over her vigorous investigations of corruption allegations, in 1997 Parliament repealed the 1995 Ombudsman's Act, and, in June 1998, the Supreme Court upheld the repeal, and the President signed the legislation. A new Ombudsman's Act was passed by Parliament in November 1998; among other provisions it requires that members of the Ombudsman's staff be appointed by the Public Service Commission rather than by the Ombudsman and that persons interviewed by the Ombudsman may have legal representation present at the interview.

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

The Constitution provides fundamental rights and freedoms for "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 few jobs are available for the disabled.

Women

Violence against women, particularly wife beating, is 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 ignorant of their rights or fear 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. During the year, in the course of a downsizing in the public service, a disproportionate number of women's positions were abolished. Policies to guide the Department of Home Affairs in protecting and furthering the rights of women currently are being drafted under the Government's reform program.

The majority of women enter into marriage through "bride-price payment," a practice that encourages men to view women as property. Women also are 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. Women interested in running for public office get encouragement and help from an NGO, Vanuatu Women in Politics (VANWIP). Four of the six women who ran for Parliament in the 1998 election ran under the VANWIP banner.

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. NGO's and law enforcement agencies report increased complaints of incest

and rape of children, although no statistics are available.

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 NGO's.

National/Racial/Ethnic Minorities

Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally are concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes that inhabit it, and it cannot be sold, although it sometimes is leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There is no evidence to suggest a pattern of ethnic discrimination in the provision of the limited basic services that the Government provides.

Section 6 -- Worker Rights

a. The Right of Association

The law provides workers with the right to organize unions.

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 (VCTU). The trade unions are independent of the Government.

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 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 a 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, the Public Service Commission would handle violations.

In 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 during the year.

Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

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. However, unions and management 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 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.). The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, that is, restrictions on employment in the shipping industry and on nighttime employment. The Labor Department effectively enforces these laws.

e. Acceptable Conditions of Work

A legislated minimum wage is effectively enforced by the Labor Department. Since 1995 it has been a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage does 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 benefits such as sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek, with at least one 24-hour rest period weekly. An 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.

Trafficking in Persons

The Constitution does not prohibit trafficking in persons specifically; however, there were no reports that persons were trafficked in, to, or from the country.

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