



2008 Human Rights Report: Vanuatu

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Vanuatu is a multiparty parliamentary democracy with a population of approximately 218,000. The head of government, Prime Minister Edward Natapei, governed with a seven-party coalition. The most recent elections, held on September 2, were considered generally free and fair. Civilian authorities generally maintained effective control of the security forces; however, police officials on occasion acted peremptorily or at the direction of senior politicians.

The government generally respected the human rights of its citizens, but there were problems in some areas. These included poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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.

There were no developments in the case of the March 2007 mob violence in which three persons were killed and 20 injured in the Blacksands and Anabrou squatter settlements in Port Vila. In October 2007 the Vanuatu Daily Post newspaper reported that the criminal cases regarding the incident were pending in the Supreme Court. During the year the attorney general recalled a public report on the case released by a commission of inquiry. Court hearings were scheduled for February, but at year's end no further information was available.

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, and there were no reports that government officials employed torture; however, there were reports of police abuse of criminal suspects. A report was scheduled for release in December on the conditions of the main jail in Port Vila, where prisoners allegedly leaked information about conditions; however, by year's end no information had been made public.

Prison and Detention Center Conditions

Conditions at the three prisons in Port Vila improved slightly during the year with foreign donor funding but

remained below international standards. Security at all facilities was poor, and there were frequent prisoner escapes. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population. Juveniles were held together with adults.

The government permitted prison visits by independent human rights observers. For the first time, ballot boxes were brought into the prisons for the national elections, and inmates were allowed to cast their votes.

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 commissioner of police heads the police force, including a police maritime wing, the paramilitary Vanuatu Mobile Force, Immigration Department, National Disaster Management Office, and 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. During the year foreign assistance was provided 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.

Corruption and impunity were not major problems; however, there were instances of corruption and instances in which police acted without proper authorization at the behest of politicians. On October 7, four police officers suspended in 2007 for their implication in a fraud case returned to full duty pending the return to the country of an Indo-Fijian, who was the prime suspect.

Arrest and 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. The ratio of pretrial detainees to the total prison population was relatively high. 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. Detainees were allowed prompt access to counsel and family members. A public defender's office provided counsel to indigent defendants.

e. Denial of Fair Public Trial

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

Magistrates' courts deal with most routine legal matters. Island courts are present at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The Appeals Court is the highest appellate court. Judges cannot be removed without cause.

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 reluctant to enforce domestic court orders.

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

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

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, cost and lack of infrastructure limited public access to the Internet.

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.

In contrast with 2007, the government did not prohibit meetings of citizens in public.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The government provided some financial assistance for the construction of churches affiliated with member

denominations of the Vanuatu Christian Council, provided grants to church operated schools, and paid teachers' salaries at church operated schools in existence since the country's independence. These benefits were not available to non Christian religious organizations.

Government schools scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non Christian religions were not permitted to give religious instruction in public schools.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, although some churches and individuals objected to missionary activities of nontraditional religious groups. The country's Jewish community was limited to a few expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/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 had no association with the Office of the UN High Commissioner for Refugees.

The law does not address forced exile, but the government did not employ it.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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

The most recent national parliamentary elections were held in September and were considered generally free and fair. Allegations of bribery and electoral fraud were raised against Foreign Minister Bakoa Kaltongga, two other politicians, and a former ambassador to the UN. The allegation against them was that some voters were turned away from polling booths because their names were not on the roll. According to the Vanuatu Daily Post, the chief justice agreed to hear an election petition, but at year's end no date had been set for the hearing.

Political parties could operate without restriction or outside interference.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were two women in the 52-member parliament. There were no women in the

cabinet.

There were no minorities (non-Melanesians) in parliament or in the cabinet.

Government Corruption and 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.

An Ombudsman Commission report released in July revealed allegations of corruption and fraud in the Vatuman Bay land deal. A new member of parliament (MP) and a former lord mayor of Port Vila were allegedly implicated in the case. At year's end the case was pending further action by the Public Prosecutor's Office.

In 2007 three People's Progressive Party (PPP) MPs and a former senior official in the Ministry of Foreign Affairs were charged with forgery and theft in connection with a large-scale fraud scheme involving electoral development funds. The motion for action stated that the MPs brought disrepute to parliament for fraudulent use of public funds. The three MPs were suspended from parliament for six months.

Public officials are subject to a leadership code of conduct, which includes financial 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 governmental response to requests for information from the media was inconsistent.

Section 4 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.

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.

Section 5 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

Violence against women, particularly domestic violence, was common, although no accurate statistics existed. 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.

On June 19, parliament passed a Family Protection Act that covers domestic violence, women's rights, children's rights, and family rights. Violators could face prison terms of up to five years or pay a fine of up to 100,000 vatu (approximately \$900) or both. 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. There were no government programs to address domestic violence, and media attention to the abuse was limited. Churches and other nongovernmental organizations (NGOs) operated facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence but did not have sufficient funding to implement their programs fully.

Prostitution is illegal and was not regarded as a serious problem. However, on March 4, the Vanuatu Daily Post reported that "practices of prostitution" were increasing. The Protection Project noted that the number of young women and girls turning to prostitution as a result of poverty was rising in Port Vila.

Sexual harassment is not illegal and was a problem.

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. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement from the Vanuatu Council of Women.

Children

The government stressed the importance of children's rights and welfare, but there were significant problems in education. Although there is a free and universal education policy, all children pay school fees, which served as a barrier to education. School attendance is not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than did girls. 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 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.

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.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were

trafficked to, from, through, or within the country.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

There is no law specifically prohibiting discrimination against persons with physical 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 for them. Their protection and care were left to the traditional extended family and NGOs. 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.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination against homosexuals, nor were there any such reports against persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 15,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,900. The two existing trade unions, the Vanuatu Teacher's Union and the Vanuatu National Worker's Union, were independent of the government and grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage (approximately 70 percent) of the population engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations, but the government has not denied any union such permission.

Workers have the right to strike, and this right was exercised in practice. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations 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.

b. The Right to Organize and Bargain Collectively

Unions exercised the right to organize and bargain collectively. They negotiated wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three 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 magistrates' courts. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

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

d. 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. The Department of Labor effectively enforced these laws.

e. Acceptable Conditions of Work

In October the Department of Labor increased the minimum wage to 26,000 vatu (approximately \$245) per month. The minimum wage did not provide a decent standard of living for an urban worker and family. 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, such as 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.

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. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.