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## 2010 Human Rights Report: Vanuatu

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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Vanuatu is a multiparty parliamentary democracy with a population of approximately 234,000. The head of government, Prime Minister Sato Kilman, was appointed in December after Edward Natapei was ousted in a parliamentary vote of no confidence. The most recent elections, held in September 2008, were considered generally free and fair. Security forces reported to civilian authorities. Police officials on occasion acted peremptorily or at the direction of senior politicians.

Human rights problems during the year included police violence, 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

The government or its agents did not commit any politically motivated killings. On March 4, authorities released the report of a coroner's inquest conducted by New Zealand Justice Nevin Dawson in the case of escaped prisoner John Bule, who died after sustaining multiple injuries while in police custody following his recapture in March 2009. 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. At year's end no one had been charged in the case, and the government had not set up any commission of inquiry into the matter.

In March a group of villagers from Kaiovo village on Maewo Island reportedly killed two brothers from the same village whom they accused of using sorcery to cause the deaths of two staff members of Gambule Junior Secondary School in 2009. The killings occurred on Ambae Island. 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.

During the year a court found one defendant guilty of murder and another guilty of intentional assault causing permanent injury in the case of the 2007 mob violence in which three persons were killed and 20 injured in the Blacksands and Anabrou squatter settlements in Port Vila. Specific information on the first defendant's sentence was not available. The second defendant was sentenced to two years and nine months' imprisonment.

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 slightly during the year with foreign donor funding but remained below international standards.

Following the 2008 release of a report detailing prisoner complaints about the poor conditions at the main Port Vila prison, the government established a commission of inquiry to investigate prisoner allegations. The commission prepared a report that was released in August 2009. Major recommendations included a review of certain sections of the Correction Services Act and demolition and rebuilding of buildings at the Stade Correctional Center in Port Vila. In April 2009 a Supreme Court judge expressed the court's concern about treatment of inmates and ordered the public prosecutor to investigate and report back to the court, among other things, the names of all prisoners hospitalized since January 2009, details of their injuries and illnesses, and information on prison escapees. According to the public prosecutor, only one case—that of inmate Sam Koilo—had been sent to the courts; at year's end the case remained before the Court of Appeal, and no report had been released.

At year's end the prison system held a total of 190 inmates, including 158 convicted prisoners and 32 pretrial detainees. There were five 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. This included two men's facilities in Port Vila, one men's facility in Santo, and one women's facility in Port Vila. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population.

In September 2009 the nongovernmental organization (NGO) Impunity Watch reported that the country had implemented separation of juveniles from adult prisoners in its correctional facilities. According to the acting director 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 still 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.

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The Ombudsman Commission is not authorized to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving 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.

There were some improvements reported in prison conditions during the year. According to the acting director, in line with recommendations from the commission of inquiry report into prisoner complaints of 2008, prison authorities increased activities and programs for prisoners, with a focus on vocational training, education, and arts. Foreign government assistance continued to support the maintenance and improvement of the existing facilities. There was an increase in the number of church groups visiting the correctional centers, and a prison ministry was established. Unlike in 2009, when health-care services were procured from the Red Cross to supplement services available through the public health system, inmates were taken to the local hospital to receive health-care services. The technical advisor of the Vanuatu Corrections Project stated that, with foreign government assistance, significant progress was made toward construction of a new correctional center, with the acquisition of a site and the development of a concept design in 2009. In November a groundbreaking ceremony was held to begin construction of a road to the site for the new center.

#### 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 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.

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. 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. The 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.

#### 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.

#### 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.

During the year charges brought against a correctional officer for assaulting Marc Neil-Jones, publisher of the *Vanuatu Daily Post* newspaper, in January 2009 were dropped after witnesses failed to confirm the identities of the defendant and three other alleged assailants in the case.

#### 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 expression of views via the Internet, including by e-mail; however, cost and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that approximately 8 percent of the country's inhabitants used the Internet in 2009.

#### 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://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 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.

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

#### Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The 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. In practice there were no cases of refugees being returned or expelled to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. 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

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. At year's end two additional petitions were pending Supreme Court decisions, and the remaining petitions were withdrawn.

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 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.

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

#### 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.

At year's end police were still investigating a 2008 report by the Office of the Ombudsman that revealed allegations of corruption and fraud in the Vatumauri Bay land deal. A new member of Parliament (MP) and a former lord mayor of Port Vila allegedly were implicated in the case. Although the case was referred to the Public Prosecutor's Office for further action, in 2009 that office sent it back to the police for further investigation, citing lack of sufficient evidence to prosecute.

MPs 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.

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

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 2008 Family Protection Act (FPA), which entered into force in March 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 November the government established a Family Protection Unit at police headquarters in Port Vila to deal with issues addressed by the FPA. An officer in the Family Protection Unit confirmed that more than 50 protection orders were issued since the FPA's entry into force. 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. 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 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 is not illegal and was a problem.

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. According to the World Health Organization, the estimated maternal mortality ratio was 70 deaths per 100,000 live births, and nearly 93 percent of births were attended by skilled health personnel. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

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. 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

Citizenship is derived through one's parents.

The government stressed the importance of children's rights and welfare, but there were significant problems with regard to education. Although there is a free and universal education policy, school fees served as a barrier to education. In October the government released its second and final tranche of funds to honor a commitment made in 2009 to provide all primary-school children (grades 1-6) with a stipend to pay school fees.

School attendance is not compulsory. 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.

In December Supreme Court Justice Oliver Sasak gave a suspended three-year sentence to a man who pleaded guilty to the sexual assault of a 10-year-old girl on the island of Epi; the chairperson of the NGO Pacific Network against Violence against Women criticized the leniency of the sentence.

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.

There were some children under age 18 who 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 13.

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.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

### 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

In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

### 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.

The Ministry of Justice and Social Welfare is responsible for overseeing the implementation of the country's obligations under the UN Convention on the Rights of Persons with Disabilities.

### 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

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

## Section 7 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 were no known employee complaints of such discrimination received by the department during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, 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. However, the Department of Labor did not effectively enforce these laws.

e. Acceptable Conditions of Work

In 2008 the Department of Labor increased the minimum wage to 26,000 vatu (approximately \$285) per month. The minimum wage was enforced effectively, but 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, 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. A 2008 amendment to the act increased maternity leave pay from 50 percent of salary to 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. 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. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

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