

# VANUATU 2020 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Vanuatu is a multiparty parliamentary democracy with a freely elected government. Observers considered the March 19-20 parliamentary election generally free and fair. Parliament elected Bob Loughman as prime minister. The president is head of state. Parliament elected Tallis Obed Moses president in 2017.

The national police maintain internal security. The Vanuatu Mobile Force, a paramilitary police unit, is responsible for external security but also has some domestic-security responsibilities. Both agencies report to the Ministry of Internal Affairs. Civilian authorities maintained effective control over the security forces. Members of the security forces are not known to have committed abuses.

Significant human rights issues included: serious acts of corruption; lack of investigation of violence against women; and minimal progress in reducing the worst forms of child labor.

The government made efforts to prosecute and punish abuses by officials and had mechanisms in place to identify and punish officials who may commit human rights abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices, and there were no reports that government officials employed them. Civilian authorities did not always have

effective mechanisms to punish police abuse or corruption but exercised overall control of the force. The law mandates the Office of the Ombudsman to investigate complaints of security force abuses. Additionally the police Professional Standards Unit investigates allegations of ethics violations and misuse of force, and may also prosecute cases in court.

Impunity was not a significant problem in the security forces.

Foreign assistance designed to address some of the problems confronting the security force continued. Under the Vanuatu Australia Police Project, the number of Australian Federal Police advisors working full time remained at four.

### **Prison and Detention Center Conditions**

Overcrowding and inadequate sanitary conditions in prisons created harsh conditions.

Physical Conditions: Male and female detainees were held in separate prison facilities. The country has no juvenile prison, so juvenile offenders are remanded to home communities, where tribal elders or in some cases a community justice supervisor oversees the court-appointed sentence. Probation officers regularly check in with the offender, noting compliance with the sentence.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted visits by media and independent human rights observers. Scheduled visits by the International Committee of the Red Cross and the New Zealand Department of Corrections were cancelled due to COVID-19.

### **d. Arbitrary Arrest or Detention**

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

### **Arrest Procedures and Treatment of Detainees**

A warrant issued by a court is required for an arrest, although police made a small number of arrests without warrants. Authorities generally observed the constitutional provision to inform suspects of the charges against them.

The law outlines the process for remanding alleged offenders in custody. To remand a person in custody requires a valid written warrant from a magistrate or a Supreme Court justice. Warrants typically are valid for 14 days in the first instance, and the court may extend them in writing. In general the Correctional Services Department's practice was not to accept any detainee into custody without a valid warrant. A system of bail operated effectively, although some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. Authorities allow detainees prompt access to counsel and family members. The Public Defender's Office provides free legal counsel to indigent defendants, defined as those who earn less than 50,000 vatu (\$450) per year.

Pretrial Detention: Pretrial detainees constituted approximately one-quarter of the prison population. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. The average length of time spent in remand before a case went to trial was approximately 12 weeks, although it could be longer in the outer islands.

#### **e. Denial of Fair Public Trial**

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

#### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. The judicial system derives from British common law. Judges conduct trials and render verdicts. The courts uphold constitutional provisions for a presumption of innocence, a prohibition against double jeopardy, a right to counsel, a right to free assistance of an interpreter, a right to question witnesses, a right not to be compelled to testify or confess guilt, a right to be present at trial, and a right of appeal. The law extends these rights to all defendants.

#### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters, including for human rights violations. The government, including police, generally complied with court decisions on human rights violations. Reports continued that police sometimes did not promptly enforce court orders related to domestic violence (see section 6, Women).

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press and judiciary and a functioning democratic political system combined to promote freedom of speech and press.

Violence and Harassment: According to Freedom House, “elected officials have sometimes been accused of threatening journalists for critical reporting.” For example, in November 2019 the government prevented Dan McGarry, a Canadian citizen, long-time resident, and media director of the country’s largest independent newspaper, the *Daily Post*, from returning to the country after a trip abroad; the Supreme Court in December 2019 overturned that decision and McGarry did return. McGarry told media that he believed the prime minister was specifically displeased with *Daily Post* reporting about the government’s cooperation with China to deport six Chinese nationals, four of whom had recently acquired Vanuatu citizenship through a program designed to attract Chinese investment.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

### **e. Status and Treatment of Internally Displaced Persons**

The country faced multiple volcanic eruptions, earthquakes, cyclones, and tsunami during the year. In April, Tropical Cyclone Harold displaced 6,218 individuals; they remained housed with host families or at evacuation centers at year's end. Internally displaced persons complained that it was difficult to earn an income or access food and water in some evacuee camps. Almost half of those displaced were children, who had no regular access to education and were left in vulnerable conditions, with the UN Office for the Coordination of Humanitarian Affairs reporting "child abuse concerns in 22 percent of evacuation centers and 16 percent of host families."

### **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law does not provide for the granting of asylum or refugee status, but the government developed an ad hoc system for providing protection to

refugees and granted temporary refugee status and asylum to those seeking it while awaiting resettlement by UNHCR.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Despite time and funding constraints faced by the Electoral Commission, international and domestic observers considered the March 19-20 general election free and fair. Voter rolls continued to be problematic and larger than would be expected based on population size, but this situation did not appear to affect results significantly.

Political Parties and Political Participation: Political parties operated without restriction but were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities. Most of the 49 political parties that contested the March election were newly formed.

Participation of Women and Members of Minority Groups: No laws limit participation of women and members of minority groups in the political process. Traditional attitudes regarding male dominance and customary familial roles, however, hampered women's participation in political life. No women served in the 52-member parliament, although 18 women contested the March election, an increase from eight in 2016. Women candidates and independent candidates--whether male or female--faced significant hurdles to fundraising, which limited their electoral prospects, according to one report.

The law allows municipal governments to reserve council seats for women for each ward in each municipality, and Port Vila and Luganville have done so. Port Vila has five reserved seats for women out of 14 seats in the municipal council. Luganville has four seats reserved for women out of 13 seats.

A small number of ethnic-minority persons (non-Melanesians) served in parliament.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government made some efforts to implement the law. Officials sometimes engaged in corrupt practices with impunity, and there were isolated reports of government corruption.

The Office of the Ombudsman and the Auditor General's Office are key government agencies responsible for combating government corruption.

Corruption: The law provides criminal penalties for corruption by officials, and the government generally implemented the law. In July, two senior officials and several line officers from the Ministry of Infrastructure and Public Utility were suspended following accusations that they improperly awarded contracts by failing to adhere to established law and procedures. In August former prime minister and current Member of Parliament Charlot Salwai and three of Salwai's former cabinet ministers were accused of bribery and corruption for "vote buying" in parliament. In a December ruling, the court acquitted Salwai and his codefendants.

Financial Disclosure: Members of parliament and elected members of provincial governments are subject to a leadership code of conduct specified by law that includes financial disclosure requirements. They must submit annual financial-disclosure reports to the Office of the Ombudsman, which then publishes a list of elected officials who did not comply and informs the public prosecutor who may initiate legal proceedings to hold the official accountable. The Office of the Ombudsman, which investigates those who do not submit reports, confirmed that some officials did not comply with these requirements. Reports are not made available to the public.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: In consultation with other political leaders, the president appoints a government ombudsman to a five-year term. Investigating alleged human rights abuses is among the Office of the Ombudsman's responsibilities. The office, however, does not have the power to prosecute, and the findings of its investigations are not admissible as evidence in court

proceedings. The ombudsman referred cases deemed valid to the Public Prosecutor's Office for action, but there were few prosecutions.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Rape--regardless of the victim's gender--is a crime with a maximum penalty of life imprisonment. The law does not specifically criminalize spousal rape, but it can be prosecuted under related statutes that cover assault and domestic violence. The law criminalizes domestic violence and seeks to protect the rights of women and children. Violators could face maximum prison terms of five years, a fine, or both. The law also calls for police to issue protection orders for as long as there is a threat of violence.

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

Violence against women, particularly domestic violence, was common. According to the most recent survey data available, 60 percent of women in a relationship experienced physical or sexual violence by a partner. According to a 2017 report from Correctional Services, more than 60 percent of prison inmates were charged with sex-related offenses. Most cases, including rape, were not reported to authorities because women, particularly in rural areas, were ignorant of their rights or feared further abuse.

In November the Vanuatu Women's Center reported that the number of domestic-violence cases surged after the March border closure imposed by COVID-19 travel restrictions, with triple the average number of reports for previous years, adding that there was also much violence between families and their landlords. The center provides telephone counseling, face-to-face counseling, and free legal services to ensure the safety of women and children, with support from the Australian government.

In November, Prime Minister Loughman launched a countrywide government information program to address domestic violence. Also in November the Vanuatu Women's Center introduced a national toll-free help-line number for free



counselling, referral, and support services to women and children survivors of domestic violence. The toll-free line can be accessed on the country's two network providers.

The Department of Women's Affairs played a role in implementing family protection. Nongovernmental organizations (NGOs) like the Vanuatu Women's Center played an important role in educating the public about domestic violence and helping women access the formal justice system, but they lacked sufficient funding to implement their programs fully.

Other Harmful Traditional Practices: Customary bride-price payments continued and contributed to the perception of male ownership of women.

Sexual Harassment: The law does not prohibit sexual harassment, and it was a problem. Sexual harassment was widespread in the workplace.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The constitution provides women the same personal and religious rights as men. Laws regarding marriage, criminal procedures, and employment further enshrine women's rights as equal to those of men.

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

Women were slowly emerging from a traditional culture characterized by male dominance, but women continued to experience discrimination in access to employment, credit, and pay equity for substantially similar work. The Department of Women's Affairs worked with regional and international organizations to increase women's access to the formal justice system and educate women about their rights under the law, holding multiple open workshops throughout the year that coincided with public holidays to encourage participation at the local community level.

## **Children**

Birth Registration: Children born in country to one citizen parent, through either birth or naturalization, are entitled to citizenship. Parents usually registered the

birth of a child immediately, unless the birth took place in a very remote village or island. Failure to register does not result in denial of public services.

Education: The government stressed the importance of children's rights and welfare, but significant problems existed with access to education. Although the government stated its commitment to free and universal education, school fees and difficult geography were barriers to school attendance for some children.

School attendance is not compulsory. In general boys received more education than girls. Although attendance rates were similar in early primary grades, proportionately fewer girls advanced to higher grades. An estimated 50 percent of the population was functionally illiterate.

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

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

In August a former school principal was sentenced to 13 years in prison for sexually abusing three underage children who attended his school. In June a man was sentenced to almost four years in prison for raping an underage girl in April 2019.

Child, Early, and Forced Marriage: The legal age for marriage is 21 years, although boys as young as 18 and girls as young as 16 may marry with parental permission. In rural areas and outer islands, some children married at younger ages. In 2018 UNICEF reported that approximately 21 percent of children married before age 18.

Sexual Exploitation of Children: The law addresses statutory rape, providing a maximum penalty of five years' imprisonment if the child is older than 13 but

younger than 15, or 14 years' imprisonment if the child is younger than 13. The law also prohibits commercial sexual exploitation of children, the sale of children, and the offering or procuring of a child for the purpose of prostitution or pornography. There were no criminal cases dealing with pornography or child sexual exploitation during the year.

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

Under the law the age of consensual sex is 16 regardless of sex or sexual orientation. Some children younger than 18 engaged in prostitution.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The country's Jewish community consisted of a few foreign nationals, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

In 2018, four Bangladeshi nationals were arrested for trafficking 101 Bangladeshi nationals in Vanuatu. At their hearing, all four pleaded not guilty. The trial in the Supreme Court began in November 2019. At year's end, the case was pending judgment and possible sentencing. Of the 101 victims, 26 remained in country as potential witnesses and 16 provided testimony against their alleged traffickers. The government withdrew its limited financial support for the remaining victims during the year. A small number of the remaining victims were reportedly attempting to return to Bangladesh but faced difficulty finding options due to the COVID-19 pandemic. At least one victim made a claim for asylum through UNHCR.

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

No law specifically prohibits discrimination against persons with disabilities. Although the building code mandates access for persons with disabilities to existing and new facilities, they could not access most buildings.

The government did not effectively implement national policy designed to protect the rights of persons with disabilities. Access to services through the Ministry of Health's mental-health policy was very limited. Schools were generally not accessible to children with disabilities.

The government generally relied upon the traditional extended family and NGOs to provide services and support to persons with disabilities. The high rate of unemployment in the general population, combined with social stigma attached to disabilities, meant few jobs were available to persons with disabilities.

### **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

No laws criminalize sexual orientation or consensual same-sex sexual conduct, but there were reports of discrimination and violence against lesbian, gay, bisexual, transgender, or intersex (LGBTI) persons. LGBTI activist group V-Pride Foundation reported the perception within the LGBTI community that police would tolerate violence and discrimination against LGBTI persons; therefore, harassment, discrimination, and criminal acts go unreported. LGBTI groups operated freely, but there are no antidiscrimination laws to protect them.

### **Other Societal Violence or Discrimination**

Traditional beliefs in sorcery fueled violence against persons marginalized in their communities, although there were no documented cases during the year. Women were often targets of opportunity.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions, strike, and bargain collectively. This right is not extended to the police force or prison service. While the law does not require union recognition by the employer, it prohibits antiunion discrimination once a union is recognized. Unions are

required to register with the government and to submit audited statements of revenue and expenditure to the registrar annually. Unions require government permission to affiliate with international labor federations; the government has not denied any union such permission.

The law prohibits retaliation for legal strikes but does not explicitly require reinstatement for workers fired for union activity. Unions are independent of the government, but there were instances of government interference in union activities. The law requires unions to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. A union must also show it has attempted negotiation with the employer and reported the matter to the industrial registrar for possible mediation. The minister of labor may prohibit persons employed in essential services from striking. Under the law a court may find any person who fails to comply with such a prohibition guilty of an offense; similarly, for strikes in nonessential services, courts may also find workers failing to comply with procedural requirements guilty of an offense. Convictions for such offenses may result in an obligation to perform compulsory labor in public prisons.

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

The government effectively enforced applicable law without lengthy delays or appeals. Resources were limited, and investigations were generally only carried out following complaints. Penalties for violating the law were commensurate with those for other laws involving denials of civil rights.

The government and employers respected freedom of association, but the right to collective bargaining was not explicitly laid out in the law.

## **b. Prohibition of Forced or Compulsory Labor**

The constitution and law prohibit all forms of forced or compulsory labor, and the law prohibits slavery and human trafficking. The law excludes from the definition of forced labor any work or service that forms part of the national civic obligations of citizens, but the law does not define such work.

The government effectively enforced the law. Penalties for violating the law were commensurate with those for other analogous serious crimes.

NGOs and trade unions reported on physical violence, debt bondage, withholding of wages, and abusive conditions on foreign-owned, Vanuatu-flagged fishing vessels during the year.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law does not explicitly prohibit all of the worst forms of child labor. The law establishes the minimum age for employment at 14. The law prohibits children younger than 12 from working outside family-owned agricultural production, where many children assisted their parents. Children ages 12 to 13 may perform light domestic or agricultural work if a family member works alongside the child, and agricultural work if the community does it collectively. Children younger than 18 generally may not work on ships; however, with the permission of a labor officer, a child age 15 may work on a ship. Although parliament established a minimum age of 15 for hazardous work, the law does not comply with international standards, because it does not prohibit children ages 15 to 17 from engaging in hazardous work, such as industrial labor and work on ships.

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

According to the National Child Protection Policy, the country has no data to determine the nature and prevalence of child labor. The Department of Labor stated, however, that most child workers were involved in logging, which exposed children to hazardous activities including having no proper protective equipment to operate machines, no proper training, and no regular medical checkups. Children were also involved in handling or lifting heavy loads. There were reports of a lack of regular inspection from forestry and other appropriate government agencies to provide appropriate guidance to workers.

There were no credible reports of children employed in agriculture illegally, although legal employment of children in hazardous work could constitute a worst form of child labor. There were reports children were subjected to commercial sexual exploitation (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution prohibits employment discrimination with respect to race, religion, political opinion, traditional beliefs, place of origin or citizenship, language, or sex.

The government did not effectively enforce prohibitions on employment discrimination against women, which was widespread. The penalties for violation of this prohibition are not commensurate with those for other laws related to civil rights.

Discrimination against women was especially common in promotions to management positions. Women are legally prohibited from working night hours in the same way as men. Persons with disabilities also faced discrimination with respect to employment and occupations. The International Labor Organization noted that legislation allowing for the removal of persons with disabilities from some senior positions appeared to reflect an assumption that persons are incapable of holding such a position if they have any form of disability.

#### **e. Acceptable Conditions of Work**

The minimum wage is above the national poverty income level.

The law provides for a 44-hour maximum workweek, and the total number of hours worked, including overtime, should not exceed 56 hours per week. Workers must receive more than three days' paid annual holidays. The law provides for a premium of 50 to 75 percent more than the normal rate of pay for overtime work. Penalties for wage and hour violations are not commensurate with those for similar crimes.

The law includes provisions for occupational safety standards, which are up to date and appropriate for the main sectors. Legal provisions on working conditions and safety standards apply equally to foreign workers and citizens in the formal sector. Inspectors have the right to make unannounced inspections and initiate sanctions. Application of safety and health provisions was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing. While workers have the legal right to remove themselves from dangerous situations, the government did not protect workers in this situation.

The government did not effectively enforce the wage, overtime, or occupational safety and health law, especially in the informal sector. Penalties for violations of occupational safety and health laws were commensurate with those for similar crimes. The labor commissioner stated that most companies complied with the wage rate and inspectors conducted routine inspections to determine that minimum wages were paid. The number of inspectors was not sufficient to deter violations. Penalties were not sufficient to deter violations. The government did not receive any formal complaints of violations regarding minimum wage, hours of work, or safety standards during the year.

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