

Vanuatu 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in Vanuatu during the year.

Significant human rights issues included credible reports of: harsh and life-threatening prison conditions; serious government corruption; extensive gender-based violence; trafficking in persons; and crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons.

The government took credible steps to identify and punish officials who may have committed human rights abuses.

Section 1. Respect for the Integrity of the Person

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, including extrajudicial killings, during the year.

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, and Other Related Abuses

The constitution prohibited such practices, and there were no credible reports that government officials employed them. The law mandated the Office of the Ombudsman to investigate complaints of security force abuses.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to deteriorating facilities, unsanitary conditions, and a lack of access to medical care.

Administration: Authorities conducted investigations of credible allegations of mistreatment. In July, the Ministry of Justice and Community Services announced the closure of the high-risk prison in Port Vila, due to deteriorating facilities and uninhabitable conditions that failed to meet UN standards.

Independent Monitoring: The government permitted visits by media and independent human rights observers. The International Committee of the Red Cross visited during the year. The Vanuatu Women's Center visited

women prisoners weekly and provided counseling and legal services.

d. Arbitrary Arrest or Detention

The constitution prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

A warrant issued by a court was required for an arrest. On limited occasions, with justified exceptions, police arrested individuals without warrants. Authorities generally observed the constitutional provision to inform suspects of the charges against them.

The law outlined the process for remanding alleged offenders in custody. To remand a person in custody required a valid written warrant from a magistrate or a Supreme Court justice. Warrants typically were valid for 14 days in the first instance, and the court could extend them. In general, the Correctional Services Department's practice was not to accept any detainee into custody without a valid warrant. The law required a suspect be brought promptly before a judicial officer and charged with a crime, and those rights were respected. A system of bail operated effectively, although some persons not granted bail spent lengthy periods in pretrial detention due to

judicial inefficiency. Authorities allowed detainees prompt access to counsel and family members. The Public Defender's Office provided free legal counsel to indigent defendants.

Pretrial Detention: Pretrial detainees constituted approximately one-quarter of the prison population. Judges, prosecutors, and police complained of 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 provided for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution provided for the right to a fair and public trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

Not applicable.

h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

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

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

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

Libel/Slander Laws: Libel and slander were criminal offenses; cyber slander

and cyber libel were separate criminal offenses. There were no reports of enforcement during the year.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content.

b. Freedoms of Peaceful Assembly and Association

The constitution provided 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 and the Right to Leave the Country

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

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing temporary, ad hoc protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

Access to Asylum: The law did not provide for the granting of asylum or refugee status, but the government had a 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 provided 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

Abuses or Irregularities in Recent Elections: National elections in October 2022 were reported to be fair and free of abuses and irregularities; however, Transparency International Vanuatu expressed concern there was illegal activity during the polling and counting processes.

Participation of Women and Members of Marginalized or Vulnerable

Groups: Patriarchal attitudes regarding male dominance and the expectation that women would serve as family caregivers were barriers to women's participation in political life. Women and independent candidates – whether men or women – faced significant hurdles to fundraising, which limited their electoral prospects, according to one report. Men elected officials often treated women elected officials as unequal, not speaking to them directly, but instead through their husbands. In the October 2022 election, the first woman since 2008 won a seat in parliament.

Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally implemented the law effectively. Officials, however, sometimes engaged in corrupt practices with impunity, and there were numerous reports of government corruption.

Corruption: In September, then Prime Minister Sato Kilman appointed two former members of parliament convicted of bribery and corruption as the chair of Air Vanuatu and chair of the Office of Public Service Commission.

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

For additional information concerning corruption in the country, please see

the Department of State's *Investment Climate Statement* for the country, and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction to monitor, investigate, and publish their findings on human rights conditions or cases. Government officials were often cooperative and responsive to the views of these groups. In November, the United Nations Development Programme, working with the Office of the Public Prosecutor, introduced the first Survivor-Victims Charter, which provided survivor-victims of gender-based violence guidelines on accessing the criminal justice system and other support services.

Government Human Rights Bodies: In consultation with other political leaders, the president appointed a government ombudsman to a five-year term. Investigating alleged human rights abuses was among the Office of the Ombudsman's responsibilities. The office, however, did not have the power to prosecute, and the findings of its investigations were 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 and Societal Abuses

Women

Rape and Domestic Violence: Rape, regardless of the survivor's gender, was a crime with a maximum penalty of life imprisonment. The law did not specifically criminalize spousal rape, but it could be prosecuted under related statutes that covered assault and domestic violence. The law criminalized domestic violence and sought to protect the rights of women and children. Violators could face maximum prison terms of five years, a fine, or both. The law also called for police to issue protection orders for as long as there was a threat of violence.

The government did not effectively enforce rape and domestic violence laws. Police frequently were reluctant to intervene in what they considered domestic matters.

In August, the Supreme Court sentenced a man to four years' imprisonment for raping his stepdaughter.

There was a "no drop," evidence-based policy under which police were 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.

In December, the Spotlight Initiative to eliminate violence against women and girls, a UN program in partnership with the EU, reported that more than 60 percent of the country's women had experienced gender-based violence, often at the hands of their intimate partners or family members.

These rates were higher in rural areas, but gender-based violence was prevalent across all regions, age groups, education levels, and religions. Moreover, these numbers likely underreported violence because of stigma and shame around family violence, which was considered a private matter. Most cases, including rape, were not reported to authorities because women, particularly in rural areas, were unaware of their rights or feared further abuse.

The nongovernmental organization (NGO) Vanuatu Women's Center and a gender and protection analysis report published by the UN Office for the Coordination of Humanitarian Affairs confirmed increased gender-based violence following cyclones Judy and Kevin in March. In May 2022, media reported an academic study of 192 women attending antenatal care in Sanma Province found 45 percent had experienced intimate partner violence during their current pregnancy. The women's center provided face-to-face counseling and free legal services to support the safety of women and children. It also ran a national toll-free help-line number for free

counseling, referral, and support services to women and child survivors of domestic violence that could be accessed on the country's two networks.

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

Other Forms of Gender-based Violence or Harassment: Customary bride-price payments continued and contributed to the perception of men's ownership of women.

The law did not prohibit sexual harassment and it was widespread in the workplace. A May 2022 survey of 62 girls and women in Port Vila and surrounding areas conducted by women's rights organization Sista found that 66 percent had experienced sexual harassment at their workplace; 79 percent of such cases were not reported due to "the normalization of sexual harassment" or "unclear strategies on how to report." The survey found many workplaces did not have sexual harassment policies.

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

Although the law did not prohibit women from owning or inheriting

property or land, discrimination generally barred women from land ownership or property inheritance.

The country's culture was patriarchal and characterized by male dominance. The government did not effectively enforce prohibitions on employment discrimination against women, which was widespread and especially common in promotions to management positions. Women were legally prohibited from working night hours in the same way as men. Women also experienced discrimination in access to 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 regarding 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.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Barriers impeding access to care and contraception included low literacy levels among women; risk of gender-based violence and social stigma; the belief that younger women, unmarried women, women without domestic partners, and women with no children should not use contraceptives; lack of health-care worker training; and community gossip and discrimination.

Access to menstrual health care was culturally constrained in most rural areas and was a financial challenge to girls living in urban areas. In most

rural areas access to sanitary pads was rare and during menstruation girls usually missed school.

The government provided access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception and postexposure prophylaxis were available through private clinics, following counseling services for survivors.

Systemic Racial or Ethnic Violence and Discrimination

The constitution provided that all persons were entitled to fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious or traditional beliefs, or language. The law did not, however, explicitly prohibit employment discrimination based on ethnicity. The government did not effectively enforce constitutional or legal prohibitions of discrimination or violence against members of racial or ethnic minority groups.

Children

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 was not compulsory. In general, boys received more education than girls. Although attendance rates were similar in early primary grades, significantly fewer girls advanced to higher grades, which NGOs attributed in part to lack of menstrual health-care options in rural areas.

Child Abuse: The country did not have a legal definition of child abuse, but the law addressed sexual abuse of children and stated that parents had to protect children from violence within the family setting. The national child protection policy recognized the government's responsibility to protect all children from violence, abuse, exploitation, and neglect.

According to a *Disaster Management Reference* handbook published in July by the Center for Excellence in Disaster Management and Humanitarian Assistance, one in three girls younger than 15 encountered sexual abuse.

Child, Early, and Forced Marriage: The legal age for marriage was 21, although boys as young as 18 and girls as young as 16 could marry with parental permission. In rural areas and outer islands, some children married at younger ages. In June 2022, UNICEF reported approximately 21 percent of children married before age 18.

Sexual Exploitation of Children: The law addressed statutory rape, providing for a maximum penalty of five years' imprisonment if the child was older than 13 but younger than 15, or 14 years' imprisonment if the child

was younger than 13. The law also prohibited commercial sexual exploitation of children, the sale of children, and child sex trafficking (the offering or use of a child for the purpose of commercial sex or pornography). There were no criminal cases dealing with pornography or child sexual exploitation during the year.

The maximum penalty for publishing child pornography was five years' imprisonment and two years' imprisonment for possession.

Authorities did not report enforcing laws against commercial sexual exploitation of children, child sex trafficking, and child pornography.

By law the age of consensual sex was 16 regardless of gender or sexual orientation. Some children younger than 18 were exploited in commercial sexual exploitation.

Antisemitism

The country's Jewish community consisted of a few foreign nationals, and there were no known reports of antisemitic incidents.

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based

on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No law criminalized consensual same-sex sexual conduct between adults.

Violence and Harassment: There were reports of violence and harassment against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons. LGBTQI+ activist group VPride Foundation reported the perception within the local LGBTQI+ community that police tolerated violence and discrimination against LGBTQI+ persons; consequently, harassment, discrimination, and criminal acts often went unreported. There were no hate crime laws or criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against LGBTQI+ persons.

Discrimination: No law specifically prohibited discrimination based on sexual orientation, gender identity or expression, or sex characteristics; nor did the law recognize LGBTQI+ individuals, couples, or their families. Societal discrimination against LGBTQI+ individuals indirectly prevented them from freely accessing health-care services.

Availability of Legal Gender Recognition: Legal gender recognition was not available.

Involuntary or Coercive Medical or Psychological Practices: There were no

reports of involuntary or coercive medical or psychological practices including so-called conversion therapy targeting LGBTQI+ individuals during the year.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

There were no restrictions on freedom of expression, association, or peaceful assembly related to LGBTQI+ matters.

Persons with Disabilities

Persons with disabilities were unable to access education, health services, public buildings, or transportation on an equal basis with others.

Government information and communication on disability concerns was not provided in accessible formats. No law specifically prohibited discrimination against persons with disabilities. Although the building code mandated access for persons with disabilities to existing and new facilities, most buildings did not facilitate such access.

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.

Persons with disabilities faced discrimination with respect to employment and occupations; the social stigma attached to disabilities contributed to the scarcity of jobs available to persons with disabilities amid a high rate of

unemployment in the general population. The International Labor Organization (ILO) noted that legislation allowing for the removal of persons with disabilities from some senior positions appeared to reflect an assumption that persons with any form of disability were incapable of holding such a position.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provided for the right of workers to form and join independent unions and strike. These rights were not extended to the police force or prison service. While the law did not require union recognition by the employer, it prohibited antiunion discrimination once a union was recognized. Unions were required to register with the government and to submit audited statements of revenue and expenditure to the registrar annually. Unions required government permission to affiliate with international labor federations; the government did not deny any union such permission. The government and employers respected freedom of association, but the right to collective bargaining was not explicitly laid out in the law.

Unions were independent of the government. The law required unions to

give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. A union also had to show it attempted negotiation with the employer and reported the matter to the industrial registrar for possible mediation. The minister of labor could prohibit persons employed in essential services from striking. By law a court could find any person who failed to comply with such a prohibition guilty of an offense. Similarly, for strikes in nonessential services, courts could also find workers failing to comply with procedural requirements guilty of an offense. Convictions for such offenses could result in an obligation to perform compulsory labor in public prisons. The law prohibited retaliation for legal strikes but did not explicitly require reinstatement for workers fired for union activity.

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

The government effectively enforced applicable law although enforcement was often constrained or delayed due to lack of resources. Investigations were generally only carried out following complaints. Penalties for violating the law were commensurate with those under other laws involving denials of civil rights. Penalties were never applied against violators.

b. Prohibition of Forced or Compulsory Labor

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

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 (see section 6)

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum wage, raised on May 9, was above the national poverty income level. The law provided for a 44-hour maximum workweek, and the total number of hours worked, including overtime, was limited to 56 hours per week. Workers were supposed to receive more than three days paid annual holidays. The law provided for a premium of 50 to 75 percent more than the normal rate of pay for overtime work.

Occupational Safety and Health: The law included provisions for occupational safety and health (OSH) standards, which were up to date and appropriate for the main sectors. Legal provisions on working conditions and safety standards applied equally to foreign workers and citizens in the

formal sector. Inspectors had the right to make unannounced inspections and initiate sanctions. OSH experts did not actively identify unsafe conditions or respond to workers' OSH complaints. While workers had the legal right to remove themselves from dangerous situations, the government did not protect workers in this situation. Many companies in logging, agriculture, construction, and manufacturing did not provide personal safety equipment and standard scaffolding for workers.

Wage, Hour, and OSH Enforcement: The government did not effectively enforce wage, overtime, or OSH laws, especially in the informal sector and among small businesses. Penalties for wage, hour, and OSH violations were not commensurate with those for similar crimes. Penalties were rarely applied against violators.

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. The government did not receive any formal complaints of violations regarding minimum wage, hours of work, or safety standards during the year.

The ILO in 2021 estimated that approximately 67 percent of the country's workforce was in the informal sector. Wage and safety standards applied to the informal sector but were not enforced. No government entity provided protection services to workers in the informal economy. According to the

2020 ILO-supported *Vanuatu Workers Rapid Assessment on Impact of COVID-19*, the incidence of informal employment was highest in the agriculture, forestry, and fisheries sector (95 percent), followed by industry (62 percent), and the service sector (45 percent). The report also confirmed that informal employment was higher among women than among men, and the lower the level of educational attainment, the greater the likelihood of being informally employed.