

VANUATU 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Vanuatu is a multiparty parliamentary democracy with a freely elected government. Observers considered the October 13 parliamentary election generally free and fair. Parliament elected Ishmael Kalsakau as prime minister. The president is head of state. On July 23, parliament elected Nikenike Vurobaravu president.

The Vanuatu Police Force maintains internal security. The Vanuatu Mobile Force, a paramilitary police unit, is responsible for external security but is part of the police force and has a domestic law enforcement role. Both agencies report to the Ministry of Internal Affairs. Civilian authorities maintained effective control over the security forces. Members of the security forces were not reported to have committed abuses.

Significant human rights issues included credible reports of: enforcement of criminal libel laws to limit freedom of expression; lack of investigation of and accountability for gender-based violence, including child, early, and forced marriage; and minimal progress in reducing the worst forms of child labor.

The government made efforts to prosecute and punish officials who committed human rights abuses or engaged in corruption. Impunity for human rights abuses was not a significant problem. There was sometimes impunity for corruption.

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.

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 prohibits such practices, and there were no credible 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.

Prison and Detention Center Conditions

Overcrowding and inadequate sanitary conditions in prisons created harsh conditions.

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 were cancelled due to the COVID-19 pandemic. The Vanuatu Women's Center visits women prisoners weekly and provides counseling and legal services.

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. 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 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. The law requires 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 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 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 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.

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

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

The constitution provides 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 members of the media.

Freedom of Expression: The government arrested several individuals, including

the moderator of a social media news site, for posting or failing to delete from platforms allegations that government officials caused a COVID-19 outbreak by breaching quarantine regulations.

Libel/Slander Laws: Libel and slander are criminal offenses; cyber slander and cyber libel are separate criminal offenses. In May police arrested four individuals on charges of cyber stalking, cyber slander, and cyber libel after comments appeared on Facebook claiming that two politicians had breached COVID-19 protocols, and that one of them had helped trigger the March COVID outbreak in the country.

Witnol Benkor Tor, moderator of news site *Vanuatu Politics & Home News*, was charged after a pseudonymous user posted allegations on the news site's Facebook page that member of parliament Anthony Iauko had breached COVID-19 quarantine rules. Andrea Woi, a factory processor, was charged for making a similar Facebook post about Iauko. The four individuals faced prison sentences of up to three years and fines of up to three million vatu (\$26,000). Opposition leader Ralph Regenvanu declared the government was using the laws for "political ends." Anne Pakoa, chief executive of the Vanuatu Human Rights Coalition, observed that local journalists were worried by cybercrime laws enacted in 2021, while international civil society organization Civicus termed the state of civic space "narrowed."

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. The penal code allows for prosecution on criminal charges for making false statements on the internet, including Facebook and other social media sites (see section 2.a., Libel/Slander Laws).

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 and the Right to Leave the Country

The law provides 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 protection and assistance to refugees, returning refugees, or asylum seekers, as well as 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: A general election was held on October 13; observers considered the election generally free and fair. Following the election, Ishmael Kalsakau became prime minister. A new system requiring use of a National Identification card to vote made the process more efficient, but problems with inactivated National Identification cards prevented some voters from casting their ballots. How many individuals were prevented from voting was not known at year's end, but voter turnout in many constituencies was reportedly very low.

Political Parties and Political Participation: Political parties operated without restriction but were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities. In October 47 political parties contested the election.

Participation of Women and Members of Minority Groups: No law limits participation of women and members of historically marginalized or minority groups in the political process. Traditional attitudes regarding male dominance and customary familial roles, however, hampered 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. In the October election, the first woman since 2008 won a seat in parliament. There was one woman judge on the Supreme Court.

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, the capital, has five reserved seats for women out of 14 seats in the municipal council. Luganville has four out of 13 seats reserved for women.

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 reports of government corruption.

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

Corruption: The law provides criminal penalties for corruption by officials, and the government generally implemented the law.

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

Several 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 and Societal Abuses

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 may 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.

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 police arrested a priest for allegedly raping a child.

There is 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.

Gender-based violence, particularly domestic violence, was common. According to the most recent survey data available, 60 percent of women in an intimate partner relationship experienced physical or sexual violence by a partner. According to the 2020 *Offender Census Report* from Correctional Services, 50 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 unaware of their rights or feared further abuse.

In 2021 the police force’s Family Protection Unit confirmed that the continuing increase in domestic violence and sexual abuse cases was linked to the continuing COVID-19 pandemic. For every five reports received each week by the unit, up to two were related to domestic violence and sexual abuse.

In 2021 the nongovernmental organization (NGO) Vanuatu Women’s Center reported that the number of domestic violence cases surged after the March 2020 border closure imposed by COVID-19 travel restrictions, with reports during the year doubling the average number for 2020. The center added that there was also

violence within families between children and their parents, with more than 10 reported cases a day related to domestic violence, sexual assault, and rape. In May media reported an Australian academic study of 192 women attending antenatal care in Sanma Province that 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 provide for the safety of women and children, with support from the Australian government. 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 can be accessed on the country's two networks. The help line received 30-40 calls per day.

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.

Customary bride-price payments continued and contributed to the perception of men's ownership of women.

Sexual Harassment: The law does not prohibit sexual harassment and it was widespread in the workplace. A May survey of 62 girls and women in Port Vila and surrounding areas conducted by women's rights organization Sista and supported by the Fiji Women's Rights Movement and the European Development Fund 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.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Cultural and social 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 who have not given birth to a child 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. There was limited or no access for vulnerable populations in the rural areas to health-care services. Societal discrimination against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) individuals indirectly prevented them from freely accessing health-care services.

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

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 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. Women faced discrimination in employment and occupation (see section 7.d.).

Systemic Racial or Ethnic Violence and Discrimination

The constitution provides that all persons are entitled to fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language, or sex. The government did not effectively enforce constitutional or legal prohibitions of discrimination or violence against members of racial or ethnic minority groups.

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, possibly due in part to lack of menstrual healthcare options in rural areas (see section 6, Women, Reproductive Rights). 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 age 15 affected three of 10 children. The government did little to combat the problem.

In 2021 the Family Protection Unit confirmed “children are becoming victims to sexual abuse by fathers or caretakers.”

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 June UNICEF reported that approximately 21 percent of children married before age 18.

Sexual Exploitation of Children: The law addresses statutory rape, providing for a maximum penalty of five years’ imprisonment if the child is older than age 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 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 is five years’ imprisonment and two years’ imprisonment for possession.

Authorities generally enforced laws against commercial sexual exploitation of children, child sex trafficking, and child pornography.

By law the age of consensual sex is 16 regardless of sex or sexual orientation. Some children younger than 18 were used for commercial sexual exploitation.

Antisemitism

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

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 criminalizes consensual same-sex sexual conduct between adults.

Violence against LGBTQI+ Persons: There were reports of discrimination and violence against LGBTQI+ persons. LGBTQI+ activist group VPride Foundation reported the perception within the LGBTQI+ community that police would tolerate violence and discrimination against LGBTQI+ persons; therefore, harassment, discrimination, and criminal acts go unreported.

Discrimination: No law specifically prohibits discrimination based on sexual orientation, gender identity or expression, or sex characteristics; nor does the law recognize LGBTQI+ individuals, couples, or their families. There are no hate crime laws or criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the LGBTQI+ community.

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

Involuntary or Coercive Medical or Psychological Practices Specifically

Targeting LGBTQI+ Individuals: There were no reports of the involuntary or coercive medical or psychological practices of so-called conversion therapy targeting LGBTQI+ individuals during the year.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: LGBTQI+ groups operated freely.

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 prohibits discrimination against persons with disabilities. Although the building code mandates 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.

The government generally relied upon the traditional extended family and NGOs to provide services and support to persons with disabilities. 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 (see section 7.d.).

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

Unions are independent of the government. 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. By 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. The law prohibits retaliation for legal strikes but does not explicitly require reinstatement for workers fired for union activity. Complaints from private-sector workers regarding 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 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

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 generally enforced the law. No cases of forced labor were reported during the year.

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

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 law does not explicitly prohibit employment discrimination based on ethnicity, disability, age, sexual orientation, HIV or AIDS status, or refugee or stateless status. Penalties for violations were not commensurate with those under other laws related to civil rights. Penalties were sometimes applied against violators.

The government did not effectively enforce prohibitions on employment discrimination against women, which was widespread. 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 (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 are incapable of holding such a position.

e. Acceptable Conditions of Work

Wage and Hour Laws: 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.

Occupational Safety and Health: The law includes provisions for occupational health and safety (OSH) 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. OSH experts did not actively identify unsafe conditions, including lack of personal protective equipment against COVID-19 in addition to responding to workers' OSH complaints. While workers have 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 are 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.

Informal Sector: According to a 2021 *Rapid Assessment* by the Vanuatu Council of Trades Unions funded by the ILO, of 84,859 employed persons in the country, 56,806 were in the informal sector (66.9 percent). Wage and safety standards apply 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 (95.1 percent), followed by industry (62 percent), and the service sector (45.2 percent). The report also confirmed that informal employment was higher among women than among men, and the higher the level of educational attainment, the less likelihood of being informally employed.