

## FOLLOW UP TO THE PREVIOUS REVIEW

1. Amnesty International welcomes the efforts by the Vanuatu government to implement 96 of the 135 recommendations accepted at the last review and acknowledges the challenges presented by the Covid-19 pandemic and extreme weather events made more likely and more severe by the climate crisis.
2. Vanuatu continues to be a global leader calling on climate action. In March 2023, the UN General Assembly adopted a resolution to support a motion put forward by the Vanuatu government and supported by student climate activists asking the International Court of Justice to consider State responsibilities with respect to the climate crisis. The government of Vanuatu is also a key player in a coalition of six Pacific island nations that have issued a joint call for the world to back a fossil fuel non-proliferation treaty.
3. Women continue to be significantly under-represented in all areas of public and political life. In a notable development in October 2022, the first woman Member of Parliament was elected to the 52-seat parliament in more than 15 years.
4. Annex 1 is a Matrix of Recommendations from Vanuatu's last review in 2019. Amnesty International notes that a lack of information and statistical data made it difficult to assess what progress, if any, has been made in some areas since the last review.

## THE NATIONAL HUMAN RIGHTS FRAMEWORK

5. Vanuatu does not currently have a National Human Rights Institution (NHRI), despite committing to establish one. Consultations were initiated with the support of the Secretariat of the Pacific Community (SPC) in 2021, and we urge Vanuatu to expedite the establishment of a NHRI in compliance with international human rights laws and standards.
6. Complaints of mistreatment by the Vanuatu Police Force and prisons officials are not received by an independent body, but rather by an internal department that can take disciplinary action and consider prosecutions where there is sufficient evidence of crimes being committed.<sup>i</sup>
7. Vanuatu is yet to ratify and implement a range of core human rights treaties outlined in the recommendations.

## THE HUMAN RIGHTS SITUATION ON THE GROUND

### Freedom of expression

8. The right to freedom of expression lacks adequate protection in law and practice. In November 2019, a foreign journalist had his visa cancelled over what he believes was reporting about China's influence in the country.<sup>ii</sup> He was allowed to return to his family in Vanuatu after the Supreme Court ruled his visa suspension was unlawful, with the final case decided in his favour in March 2023.<sup>iii</sup>
9. CIVICUS has ranked the civic space in Vanuatu as 'narrowed'<sup>iv</sup> amid ongoing concerns about the criminalisation of freedom of expression online, including under the Cybercrime Act No.22 of 2021<sup>v</sup> as well as the re-introduction of criminal defamation provisions under Articles 120 and 121 of Vanuatu's Penal Code Act.

10. In May 2022, four people across separate islands were arrested for alleging on social media that two politicians breached Covid-19 regulations, leading to transmissions while the nation's borders were closed. These were the first arrests under Vanuatu's Cyber law and the individuals face up to three years imprisonment. An opposition leader who made similar allegations online was not charged.<sup>vi</sup>
11. In November 2023, public consultations will be held on the Vanuatu Non-Governmental Organisations (NGOs) Act. Amnesty International urges Vanuatu to ensure any legislation is aimed at creating a safe and enabling environment for civic space, freedom of expression, association and assembly and the protection of human rights defenders.

## Women and girls

12. Abortion is illegal in most circumstances under the provisions of section 117 of the Vanuatu Penal Code, Act No. 17 of 1981, except for 'good medical reasons' which is highly restrictive and incompatible with international human rights law and standards.
13. Early and forced marriage remains a challenge for gender equality.<sup>vii</sup> Cultural practices such as bride price incentivises early and forced marriage. In 2021, the Marriage Act was amended to recognise all religious, civil and customary marriages, however in practice not all marriages are registered.
14. In spite of some government efforts, violence against women remains consistently high (around 60% of women are estimated to experience family violence).<sup>viii</sup> More needs to be done to ensure access to health care and psycho-social support for women and girls experiencing violence, as well as providing appropriate resources to prevent and respond to violence against women. The Penal Code should explicitly list spousal rape as an offence.

## Non-discrimination and marginalised groups

15. Vanuatu's Constitution prohibits discrimination on the 'grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex' (Article 5, Vanuatu Constitution).
16. Same sex sexual activity is lawful between consenting adults over the age of 18 years, however people continue to face stigma and discrimination on the basis of their sexual orientation and gender identity. Same sex relationships do not have the same legal protection as a heterosexual marriage and are not recognised under the Family Protection Act 2008. This affects many rights of same sex partners and also limits their ability to seek protection orders in cases of domestic violence.
17. Vanuatu has a National Disability Inclusive Development Policy 2018-2025,<sup>ix</sup> however it is unclear how the government is tracking progress on implementation of this policy due to a lack of updated data. There are no comprehensive anti-discrimination laws that prohibit discrimination on the basis of disability.
18. An increasing number of ni-Vanuatu people have taken the opportunity to work under visa schemes in Australia and New Zealand (with an estimate 7,000 people in Australia in 2022).<sup>x</sup> In some cases, there have been reports of misleading recruitment practices, exploitation and discrimination by employers abroad.<sup>xi</sup> The Vanuatu government should continue to work to reduce risks of exploitation of its nationals working overseas.<sup>xii</sup>

## Abuses in the criminal justice system

19. Ill treatment by police and prison officials is not uncommon, resulting in a lack of trust in the criminal justice system. Policing could be improved with strong, independent and effective accountability mechanisms. In May 2023 the Police Commissioner was suspended for threatening tourists,<sup>xiii</sup> and in April 2022, three police officers were suspended after it was alleged they assaulted some youths.<sup>xiv</sup> While officers were suspended pending investigation in both cases, it is not clear whether they faced disciplinary measures or criminal charges. Vanuatu should ensure effective, impartial, prompt and independent investigations by establishing a separate body to receive and investigate complaints against the police.
20. There are no adequate laws and policies to deal with youth offenders that is both age appropriate and human rights compliant. Children as young as 10 may be liable for criminal acts, and a new detention centre for people under the age of 21 was opened in August 2021.<sup>xv</sup> Detention of children should always be a last resort and alternatives to detention should be prioritised.
21. Problems with over-crowding and unsanitary conditions persist in the prison system, with around a third of detained persons being held in pre-trial detention.<sup>xvi</sup>
22. In an annual survey conducted by the Human Rights Measurement Initiative (New Zealand), around 7.1 out of 10 people felt they were at risk of arbitrary arrest, torture and ill-treatment, forced disappearance, execution or extrajudicial killing,<sup>xvii</sup> showing a lack of public confidence in law enforcement agencies.
23. Vanuatu does not have a military, but reports suggest this is being considered.<sup>xviii</sup> Amnesty International urges Vanuatu to focus its efforts on improving the effectiveness and accountability of existing law enforcement agencies, ratifying and implementing the Optional Protocol to the Convention against Torture and other forms of ill-treatment, before considering additional armed forces.

### Climate crisis

26. The Pacific Island region contributes less than 0.03% to global emissions, yet it is particularly at risk of the damaging impacts of climate change such as rising sea levels and increased severe weather events. Vanuatu is at high risk of coastal erosion, tidal surges, longer-lasting droughts and more frequent tropical cyclones.<sup>xix</sup>
27. Vanuatu revised and enhanced its commitments to tackle the climate crisis in August 2022, registering its plans with the UN to phase out fossil fuels and rely on 100% renewable energy by 2030, being one of only 12 countries to do so.<sup>xx</sup>

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### Amnesty International calls on the government of Vanuatu to:

#### The National Human Rights Framework

28. Ratify and implement the core human rights treaties including the Second Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Labour Organization (ILO) Protocol of 2014 to the Forced Labour Convention 1930 (No. 29), ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

29. Prioritise efforts to establish a national human rights institution in compliance with the Paris Principles and seek technical assistance where necessary.

### **Freedom of expression**

30. Repeal Articles 120 and 121 of the Penal Code Act (as amended in 2021) that criminalise defamation and are incompatible with international human rights laws and standards on acceptable limitations on the right to freedom of expression.
31. Amend the Cybercrime Act No 22 of 2021 to be consistent with international human rights laws and standards on the right to freedom of expression.
32. Refrain from any reprisals or acts of intimidation, including deregistration of news outlets or visa cancellations, against journalists, civil society organisations and other individuals merely for peacefully exercising their right to freedom of expression or for expressing a political opinion or belief.
33. Immediately and unconditionally drop charges against the four individuals who were the first charged under the Cybercrime Act.

### **Women's rights**

34. Repeal section 117 of the Penal Code Act to ensure universal, safe and legal access to voluntary termination of pregnancy for all women, girls and pregnant people and guarantee the provision of relevant services, including post-abortion care and evidence-based abortion information.
35. Increase the age of marriage for girls from 16 years of age (with parental consent) to 18 years of age in line with international human rights standards and implement awareness programs to tackle early and forced marriage.
36. Ensure all persons, including those on outer islands, are encouraged and able to register all births, deaths and marriages.
37. Implement measures that address root causes of cultural practices that discriminate against women such as bride price.
38. Review the civil and traditional legal systems to bring them in line with international standards of the Convention on the Elimination of All Forms of Discrimination against Women.
39. Put in place a comprehensive strategy to address discriminatory gender stereotypes and patriarchal attitudes.
40. Establish effective measures to ensure that women are proportionately represented in the national Parliament, as well as active policies to reverse social discrimination affecting women and protect them in cases of gender-based violence.
41. Continue to strengthen the Department of Women's Affairs and intensify efforts to combat gender-based violence, ensuring that perpetrators of such acts are duly prosecuted and that the police, prosecutors, judges and lawyers are provided with gender-sensitivity training.
42. Ensure allocation of adequate resources for the training of law enforcement and medical personnel, for investigations and the prosecution of perpetrators of these crimes, and for provision of holistic services for survivors.

43. Amend all relevant legislation and introduce new legislations to ensure gender equality and prohibition of discrimination based on gender, covering direct and indirect discrimination in both the public and private spheres, and take all necessary measures in order to enforce and implement them.

44. Amend the definition of 'rape' in the Penal Code [Cap 135] to explicitly include spousal rape as an offence.

### **Non-discrimination and marginalised groups**

45. Enact comprehensive anti-discrimination laws that include discrimination on the basis of sex, sexual orientation, gender identity, sex characteristics, disability, race, political opinion and religious beliefs.

46. Ensure same sex relationships are recognised by government agencies as equal in status to marriages or de facto relationships between a man and a woman, including under the Family Protection Act.

47. Put in place measures, including anti-discrimination measures and awareness-raising campaigns, to eliminate stigma, discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons.

48. Work with the Australian and New Zealand governments to ensure that ni-Vanuatians working in either country have adequate rights and protections guaranteed and to mitigate the risk of worker's exploitation and discrimination.

### **Criminal Justice System**

49. Adopt child justice legislation that establishes specialized procedures and courts and raises the minimum age of criminal responsibility to at least 14 years of age, in accordance with international standards.

50. Ratify and implement the Optional Protocol on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ensure security officers receive adequate training on use of force and firearms on a regular basis.

51. Address problems with the prison system, including over-crowding and unsanitary conditions, and reduce the numbers of detainees held on remand.

### **Climate Crisis**

52. Ensure inclusive consultation, particularly with marginalised individuals including women, those living in outer islands; people with disabilities; and lesbian, gay, bisexual, transgender and intersex people, in the National Advisory Board on Climate Change and Disaster Risk Reduction and the disaster and climate change committees, ensuring their effective participation in the planning, decision-making and implementation processes of the National Policy on Climate Change and Disaster Risk Reduction.

53. Further mainstream human rights in the formulation of policies and measures taken towards the mitigation and adaptation to climate change. In this regard, seek support, examples, and lessons from other countries facing significant adaptation challenges, as well as from international organisations, civil society, states, and other actors with technical capacity in this area.

<sup>i</sup> Complaints are received by the Professional Standards Unit of the Police, which is then overseen by the Police Commissioner (See: <https://vpf.gov.vu/contact-us/complaint>).

<sup>ii</sup> Max Waldon, 'Journalist says he's barred from Vanuatu over reporting on Chinese influence', 18 November 2019, ABC News, available at [Journalist says he's barred from Vanuatu over reporting on Chinese influence - ABC News](#)

- <sup>iii</sup> 'Daily Post's Dan McGarry to return home after travel ban overturned', 19 December 2019, Radio New Zealand, available at [Daily Post's Dan McGarry to return home after travel ban overturned | RNZ News](#)
- <sup>iv</sup> CIVICUS Global Alliance, 'Monitor: Vanuatu', 2022, available at <https://monitor.civicus.org/country/vanuatu/>
- <sup>v</sup> Full Cybercrime Act available at [https://ogcio.gov.vu/images/Docs/legislation/Cybercrime\\_Act\\_n\\_of\\_2021.pdf](https://ogcio.gov.vu/images/Docs/legislation/Cybercrime_Act_n_of_2021.pdf)
- <sup>vi</sup> 'Vanuatu police crack down with arrests over slander of MPs accused of breaking covid lockdown', 12 May 2022, The Guardian, available at <https://www.theguardian.com/world/2022/may/12/vanuatu-police-crack-down-with-arrests-over-slander-of-mps-accused-of-breaking-covid-lockdown>
- <sup>vii</sup> According to Girls not Brides, see <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/vanuatu/#:~:text=What's%20the%20prevalence%20rate%3F,before%20the%20age%20of%2018.>
- <sup>viii</sup> These statistics are based on a 2011 report by UN Women (see: <https://evaw-global-database.unwomen.org/en/countries/oceania/vanuatu#1>).
- <sup>ix</sup> The Government of the Republic of Vanuatu, 'National Disability Inclusive Development Policy 2018-2025', available at [https://mjcs.gov.vu/images/policy/DID\\_Policy\\_2018-2025.pdf](https://mjcs.gov.vu/images/policy/DID_Policy_2018-2025.pdf)
- <sup>x</sup> See Australian Department of Foreign Affairs and Trade – Vanuatu page at <https://www.dfat.gov.au/geo/vanuatu/engagement-in-vanuatu#:~:text=Vanuatu%20is%20the%20largest%20source,in%20rural%20and%20regional%20Australia.>
- <sup>xi</sup> Marian Faa, 'Controversial Labour Firm Exits PALM Scheme over Exploitation Allegations' 23 July 2023, ABC News, <https://www.abc.net.au/pacific/programs/pacificbeat/exploitation-complaints/102653966>
- <sup>xii</sup> Lagipoiva Cherell Jackson, 'Vanuatu government launches enquiry into labour schemes after testimony from farm workers in Australia', The Guardian, 23 February 2022, available at <https://www.theguardian.com/world/2022/feb/23/vanuatu-government-launches-inquiry-into-labour-schemes-after-testimony-from-workers-in-australia>
- <sup>xiii</sup> Jane Joshua, 'Police Boss Suspended', The Daily Post, 31 May 2023, available at [https://www.dailypost.vu/news/police-boss-suspended/article\\_3230acae-ddc0-56f3-8b73-b493c86b91ff.html](https://www.dailypost.vu/news/police-boss-suspended/article_3230acae-ddc0-56f3-8b73-b493c86b91ff.html)
- <sup>xiv</sup> Radio New Zealand, 'Call for Vanuatu Police Chief to reinstate officers suspended over brutality claim', 25 April 2022, available at <https://www.rnz.co.nz/international/pacific-news/465844/call-for-vanuatu-police-chief-to-reinstate-officers-suspended-over-brutality-claim>
- <sup>xv</sup> Steve Ayong, 'Vanuatu opens its first youth detention centre', 13 August 2021, VBTC, available at [Vanuatu opens its first youth detention centre - VBTC](#)
- <sup>xvi</sup> Vanuatu Prison capability was at 180 people, with an estimated 253 people detained as at 2020, with around one third of those being pre-trial detainees. See [www.prisonstudies.org/country/Vanuatu](http://www.prisonstudies.org/country/Vanuatu)
- <sup>xvii</sup> Human Rights Measurement Index (Rightstracker), see [Vanuatu \(rightstracker.org\)](#)
- <sup>xviii</sup> 'Solomon Islands, Vanuatu consider forming militaries', 20 July 2023, The Jakarta Post, available at [Solomon Islands, Vanuatu consider forming militaries - Asia and Pacific - The Jakarta Post](#)
- <sup>xix</sup> IPCC, "Climate Change 2022: Impacts, Adaptation and Vulnerability", Working Group II Contribution to the Sixth Assessment Report: Chapter 15 - Small Islands, February 2022, [ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_Chapter15.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_Chapter15.pdf)
- <sup>xx</sup> Lagipoiva Cherelle Jackson, 'Vanuatu one of the most climate vulnerable countries launches ambitious climate plan', The Guardian, 14 August 2022, available at <https://www.theguardian.com/world/2022/aug/14/vanuatu-one-of-most-climate-vulnerable-countries-launches-ambitious-climate-plan>