

NAURU 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. Parliamentary elections held in June 2013 were generally free and fair. President Baron Waqa was elected from among the 19 parliamentarians. President Waqa survived a vote of no confidence in January with a vote of seven in favor and 11 against, after the opposition alleged judicial interference. Authorities maintained effective control over the security forces.

There were some allegations of government corruption and instances of domestic violence, child abuse, and discrimination against women. International human rights organizations expressed concern over the treatment of asylum seekers and conditions at the Australian-run detention center.

The government owned all media and maintained control over what was published and broadcast. Some opposition figures alleged the president interfered with the judiciary. Laws protecting workers rights were rudimentary.

Impunity was not a problem, as there were no reports that government officials committed human rights abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions generally met international standards. International human rights organizations criticized asylum-seeker detention center conditions. In July 2013 asylum seekers at the Australian-run detention center rioted following an announcement that Australia would implement stricter immigration policies (see section 2.d.). Following the riots, 63 asylum seekers faced criminal charges. As of June the court convicted and sentenced one asylum seeker to two years and five months in prison and a second to 11 months in prison.

Physical Conditions: The sole correctional facility is designed to hold as many as 100 prisoners at full capacity. The facility consists of a juvenile center that can hold up to 20 juveniles, a women's prison that can hold up to 20 female prisoners, two dormitory units that can hold another 20 male prisoners, and a main prison that can hold 20 male prisoners. There were 13 male prisoners and one female prisoner incarcerated as of November. Prisoners had access to potable water and sufficient quantities of food. Sanitation and medical care were adequate.

Administration: The government kept adequate records. Prisoners and detainees did not have an ombudsman who served on their behalf. Prison authorities provided daily reports to the correctional center's management on the behavior of each prisoner. These reports were submitted to the Quarterly Remission Program, which could reduce a prisoner's sentence by a quarter of the total term based on good behavior. The correctional center's management made recommendations for sentence reductions to the secretary for justice, who issued final decisions. The program also ensured prison terms were monitored accurately.

There is no formal legal provision for traditional reconciliation mechanisms. Apologies and reconciliation, however, frequently played an informal role in criminal proceedings, including as a mitigating factor in sentencing.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities through their families, lawyers, or directly to the officer in charge, who addressed all complaints. If necessary, police assisted in investigations. Government representatives made weekly visits to the prison.

Prisoners had access to visitors and permission for religious observance.

Independent Monitoring: The government affirmed it would permit prison and detention center monitoring visits by independent human rights observers, and several such visits took place during the year. In April, however, human rights

groups asserted that authorities denied or canceled access to the detention center for several investigative teams during the year. Follow-up requests for access remained pending with authorities at year's end. In February authorities concluded the Salvation Army's contract to maintain a presence within the detention center to provide humanitarian services, and they subsequently departed.

Improvements: In 2013 the Australian government donated 17 million Australian dollars (\$15.87 million) for a new corrections facility, and the government completed construction during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The national police under the Ministry of Police maintain internal security and, as necessary, external security. The country has no military force. Civilian authorities maintained effective control over the police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

Authorities made arrests based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. Authorities informed detainees promptly of the charges against them. The bail system functioned properly. The law provides for accused persons to have access to legal assistance, but qualified assistance was not always readily available. Detainees had prompt access to family members.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence, but opposition politicians accused the president of interference with the judiciary when he dismissed the resident magistrate and ordered the visa of the chief justice cancelled (see section 3).

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. English common law provides the basis for procedural safeguards. The safeguards include the presumption of innocence, the right to trial by jury, adequate time and facilities to prepare a defense, and prohibitions on double jeopardy and forced self-incrimination. Defendants have the right to be informed promptly of charges and consult with an attorney or have one provided at public expense when required “in the interest of justice.” Defendants also have the right to confront witnesses, present evidence, access government-held evidence, and appeal convictions. Trials are public. In many cases officials used bail and traditional reconciliation mechanisms rather than the formal legal process, usually by choice but sometimes under communal pressure. These rights are extended to all citizens.

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 in civil matters, including access to a court by individuals or organizations to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights. The government, however, owned all media and exercised editorial control over content.

Press Freedoms: Authorities raised the cost of a journalist visa from AU\$200 (\$177) to AU\$8000 (\$7,089) in January and stated the fee increase was intended to

raise revenue. The fee deterred foreign journalists from visiting the country. Several newspapers ceased operations in the past decade, including *Central Star News*, *Nauru Chronicle*, and *People's Voice* (an opposition newsletter). There were no remaining local independent media outlets, and the government exercised control over the content of the government-run outlets.

Censorship and Content Restrictions: All media was government owned, giving the government significant control over what was published and broadcast.

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. Internet access was available and widely used. Smartphones and employment-related access provided the most common methods of internet usage. According to the International Telecommunication Union, 54 percent of persons in the country accessed the internet in 2011.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution provides for 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 www.state.gov/religiousfreedomreport/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Neither the constitution nor law specifically provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government generally respected these rights.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugees status, and the government has established a process for providing protection to refugees. The law includes a provision for nonrefoulement.

In 2012 Australia opened the Nauru Regional Processing Center to detain and process asylum seekers arriving without visas by boat to Australia. In August 2013 the government signed a memorandum of understanding (MOU) with Australia allowing asylum seekers to be resettled in Nauru or a third country if they are found to be refugees. The MOU removed the possibility for asylum seekers to resettle in Australia. As of September authorities resettled 179 asylum seekers in the country as refugees.

Access to Basic Services: Within the processing centers, basic services, including food, shelter, water, and sanitation and health infrastructure, were provided by Australia through contractors and nongovernmental organizations (NGOs), as were health-care, education, and psychosocial counseling services. Once processed, refugees were resettled to purpose-built communities with water, electricity, and shelter, from which they had access to education and health care and could seek employment.

Durable Solutions: In 2012 the government opened a detention center for up to 1,500 asylum seekers who sought asylum in Australia; the center held 748 men, 263 women, and 222 children as of August. The government has an agreement with the International Organization for Migration to manage the detention program. In July 2013 the Australian government announced that asylum seekers who reached Australia by boat without a visa would no longer be resettled within Australia. That evening a riot broke out at the detention center resulting in extensive damage. In September, Australia signed an agreement to transfer willing asylum seekers, who are designated as refugees, to Cambodia for resettlement. Asylum seekers protested the announcement. During the year international human rights organizations and foreign citizens who formerly worked in the detention center criticized the living conditions, lack of mental health treatment, lack of freedom of movement, and lengthy processing times endured by the asylum seekers. An NGO released a report in August specifically condemning the conditions suffered by child asylum seekers. Self-harm, hunger strikes, and suicide attempts by asylum seekers reportedly occurred during the year. Government officials alleged that NGO workers instructed asylum seekers how to

take these measures as a means to secure relocation in Australia. An investigation into the matter by Australia was pending at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the ability to change their government free and fair elections, which they exercised through elections based on universal suffrage.

Elections and Political Participation

Recent Elections: The most recent parliamentary elections, held in June 2013, were generally free and fair. Parliament elected Baron Waqa president after months of political turmoil.

President Waqa survived a vote of no confidence in January with a vote of seven in favor and 11 against, after he dismissed the country's resident magistrate and cancelled the visa of the chief justice, alleging cronyism and foreign control. The president then appointed a new magistrate and chief justice. The opposition alleged the president had interfered in the judiciary.

Political Parties and Political Participation: Although political parties have the legal right to operate without outside interference, there were no formal parties.

Participation of Women and Minorities: The law does not prevent women from participating in politics, but their participation was significantly less than that of men. Five women ran in the June 2013 general elections and, for only the second time in its history, a woman was elected to parliament. The country's permanent representative to the United Nations and ambassador to the United States was a woman. Women held senior civil service positions, including the head of the civil service, secretary for justice, director of women's affairs, secretary for home affairs, and presidential counsel.

There were no members of minorities in the parliament or cabinet. The country has a small and almost entirely homogenous Micronesian population.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. There were no reports of government corruption during the year.

Financial Disclosure: There are no financial disclosure laws.

Public Access to Information: There are no legal provisions for public access to government information, but the government provided limited copies of its annual budget documents to the public on request.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not restrict the establishment or operation of local human rights organizations, but no such groups existed. No international human rights organizations maintained offices in the country. In April human rights groups asserted that authorities denied or canceled access to the detention center to several investigative teams during the year.

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

The constitution prohibits discrimination on the basis of race, gender, disability, language, sexual orientation, gender identity, or social status, and the government generally observed these provisions.

Women

Rape and Domestic Violence: Rape is a crime punishable by up to life imprisonment. Spousal rape is not specifically identified as a crime, but police investigated and filed charges when allegations of rape were made against a spouse. Police investigated all reported rape, and the courts vigorously prosecuted cases. Statistics related to rape cases were not available.

The law does not address domestic violence specifically, but domestic violence cases can be prosecuted under laws against common assault. The maximum penalty for simple assault is one year's imprisonment. The maximum penalty for assault involving bodily harm is three years' imprisonment.

The government kept no statistics on the incidence of physical or domestic abuse of women. Credible reports from women's organizations indicated that sporadic abuse occurred, often aggravated by alcohol use. Families normally sought to

reconcile such problems informally and, if necessary, communally. The police and judiciary treated major incidents and unresolved family disputes seriously.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C, and there were no reports of such practices.

Sexual Harassment: There is no specific law against sexual harassment, but harassment involving physical assault could be prosecuted under assault laws. Authorities did not believe sexual harassment was widespread.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; to obtain the information and means to do so; and to attain the highest standard of reproductive health, free from discrimination, coercion, and violence. The government-run medical system provided access to contraception and prenatal, obstetric, and postpartum care free of charge. A Department of Health survey on contraceptive use reported that 36 percent of surveyed married women used some form of contraception. According to the UN Children's Fund (UNICEF), from 2002 to 2012 skilled medical attendants attended 97 percent of births. According to the UN Fund for Population, the maternal mortality ratio was unknown.

Discrimination: The law grants women the same freedoms and protections as men. The government officially provides equal opportunities in education and employment, and women may own property and pursue private interests. The law does not require equal pay for equal work. In practical terms, however, societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights. While women headed approximately one-third of all households, less than one-quarter of heads of households engaged in paid work were female. Overall 70 percent of male heads of households and 40 percent of female heads of households were economically active in either paid or unpaid work, according to the Secretariat of the Pacific Community. More than half of the female heads of household were not working and were not able to work (29 percent), unemployed (25 percent), or undertaking other activities. The Women's Affairs Office is responsible for promoting professional opportunities for women.

Children

Birth Registration: Children derive citizenship from their parents. The constitution also provides for acquisition of citizenship by birth in the country in

cases in which the person would otherwise be stateless. The law requires registration of births within 21 days.

Child Abuse: Child abuse statistics were not compiled. Corporal punishment was legal in homes, schools, and alternative-care settings, but generally it was not permitted in schools and alternative-care settings.

Forced and Early Marriage: The legal minimum age of marriage is 18 for boys and 16 for girls. Children under the legal minimum need the written consent of the parents. UNICEF reported that between 2002 and 2012, almost 30 percent of girls were married by the age of 18. There were no known government efforts to prevent the traditionally accepted practice.

Sexual Exploitation of Children: The minimum age for consensual sex is 17. “Carnal knowledge” of a girl under age 12 has a maximum penalty of life imprisonment. The penalty for unlawful carnal knowledge or attempted carnal knowledge of a girl under age 17 is six years’ imprisonment. “Indecent treatment” of a girl under age 17 is punishable by two years’ imprisonment, and indecent treatment of a boy under age 14 is punishable by seven years’ imprisonment.

There is no specific law against child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The country does not have a known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that Nauru was a source, destination, or transit country for crimes of human trafficking.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities. No legislation mandates services for persons with disabilities or access to public buildings. Although the government has installed mobility ramps

in some public buildings, many buildings in the country were not accessible. The government provides a welfare benefit to persons with disabilities. As part of aiding the participation in society of persons with disabilities, Department of Education teachers provided classes for a small group of students with disabilities.

There is no government agency with specific responsibility for protecting the rights of persons with disabilities. There are no formal mechanisms to protect persons with mental disabilities. There were no reports of discrimination against persons with disabilities with regard to employment, but social stigma likely led to decreased opportunities for decent work.

In December 2013 the government commemorated the UN's International Day of Persons with Disabilities as a national holiday for the first time.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Consensual male same-sex sexual conduct is illegal, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons. The law does not prohibit discrimination based on sexual orientation or gender identity. There are no hate crime laws nor are there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the lesbian, gay, bisexual, and transgender community. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers may form and join trade unions or other associations. It does not prohibit foreign workers from organizing, but it restricts freedom of association for the police force. While the right to strike is neither protected nor prohibited by law, a civil servant may not foment or take part in a strike and may be summarily dismissed from the service if found guilty of doing so, under the Public Service Act 1998. Although there are no legal impediments, the law does not afford workers the right to collective bargaining, and it did not take place.

The country lacks formal trade unions and labor laws protecting the exercise of freedom of association rights, including protection from antiunion discrimination.

There is no legal right to reinstatement for dismissal due to union activity, but workers would have the ability to seek legal redress through the civil court system.

The transient nature of the mostly foreign workforce hampered efforts to organize trade unions. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. There were no strikes during the year and no reports of antiunion discrimination or retaliation.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, but the law does not stipulate penalties. A case of forced labor would be handled in the civil court system. There were no reports that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age of employment at 16. No regulations govern type of work, occupation, or hours for workers under 18, nor do they identify hazardous occupations. The Department of Human Resources and Labor is responsible for enforcing the law, which was respected by the only two significant employers: the government and the phosphate industry. The government enforced the law in the public sector but did not conduct any workplace inspections of private businesses during the year.

Some children under 17 worked in small family-owned businesses.

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

d. Discrimination with Respect to Employment or Occupation

Labor laws and regulations do not prohibit discrimination regarding race, sex, gender, disability, language, sexual orientation, gender identity, HIV-positive status or other communicable diseases, or social status, and these persons sometimes experienced discriminatory practices. Discrimination in employment and wages occurred with respect to women (see section 6).

e. Acceptable Conditions of Work

Public-service regulations govern salaries, working hours, vacation periods, and other employment matters for government workers, who constituted more than 90 percent of salaried workers. The government has a graduated salary system for public service officers and employees. There is no minimum wage for private-sector workers. There was no official poverty-level income figure, but approximately 26 percent of the population lived at the subsistence level.

By regulation the workweek in both the public and private sectors was 35 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period, but most workers observed Saturdays and Sundays as holidays. There are provisions for premium overtime pay only for public-sector workers, but no specific regulations govern overtime or overtime pay for private-sector workers.

The government sets some health and safety standards, which the Department of Human Resources and Labor enforced in the public sector, but no law governs workplace health and safety standards overall. The law does not provide workers the right to remove themselves from a hazardous workplace without jeopardizing their employment.

The government did not provide numbers of inspectors. The law allows the ministry the right to inspect a workplace at any time. An employer found to be in violation of the Workers Act or the provisions of an employment contract can be charged with a criminal offense.

The phosphate industry had a history of complying with workplace health and safety requirements, but with the decline of the industry, enforcement of these regulations became lax. Accusations that unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard accompanied the gradual revival of the industry. The government continued to cite high costs as a justification for not acting to eliminate the problem. No data was available for workplace fatalities or accidents during the year.