

NAURU 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. The 2010 parliamentary elections were generally free and fair. In November 2011 Marcus Stephen resigned the presidency amid accusations of corruption. Parliament elected Freddie Pitcher the following day, but he lost a no-confidence vote four days later. Parliament subsequently elected Sprent Dabwido. On June 11, Dabwido dismissed the cabinet and named a new cabinet from the opposition on June 12. Security forces reported to civilian authorities.

There were few serious human rights problems reported.

There were some allegations of government corruption and some instances of domestic violence, child abuse, and discrimination against women.

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 and detention center conditions generally met international standards, and the government affirmed it would permit visits by independent human rights observers, although none was reported during the year.

Physical Conditions: The sole correctional facility is designed to hold as many as 70 prisoners at full capacity. The facility is composed of a juvenile center, a women's prison, two dormitory units, and a main prison. There were 26 male prisoners in detention at the end of the year. There were no women or juveniles in detention during the year. Prisoners had access to potable water.

Administration: Nauru kept adequate records on prisoners. 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 accurately monitored.

There is no formal legal provision for traditional reconciliation mechanisms. However, apologies and reconciliation 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 with the officer in charge. All complaints were addressed by the officer in charge. If necessary, police assisted in investigations. Government representatives made weekly visits to the prison.

Prisoners had access to visitors and were permitted religious observance.

Monitoring: The government affirmed it would permit monitoring visits by independent human rights observers, but none were reported.

Improvements: The Correctional Center was undergoing renovations 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

Arrests are made openly, 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. Detainees are informed promptly of the charges against them. The bail system functioned properly. The law provides for accused persons to have access to legal assistance, but in practice qualified assistance was not always readily available. Detainees were allowed 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 in practice.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on English common law. They 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.” They also have the right to confront witnesses, present evidence, access government-held evidence, and appeal convictions. Trials are public. Officials used in many cases bail and traditional reconciliation mechanisms rather than the formal legal process, usually by choice but sometimes under communal pressure.

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 in practice.

Freedom of Press: Although there were no government restrictions, there are few local independent media outlets.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Internet access was available and widely used. Smartphones and employment-related access provided the most common methods of Internet usage.

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 freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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 in practice.

Exile: Neither the constitution nor law prohibits forced exile, but the government does not force individuals into exile.

Protection of Refugees

Access to Asylum: The laws provide for the granting of asylum or refugee status, and on October 10, parliament passed the Refugees Convention Act of 2012. The new law includes a provision for nonrefoulement.

Durable Solutions: In September the government opened a detention center for up to 1,500 asylum seekers who sought asylum in Australia. The government has an agreement with the International Organization for Migration to manage the detention program. Initial accommodations were in tents with pit latrine facilities. At year's end construction on the permanent facilities remained at a standstill due to unresolved complex land rights problems. Police officers received special training in public order management to prepare them for any problems at the detention center. In November asylum seekers held hunger strikes in protest against harsh conditions at the detention center. After a three-day visit to the camp in November, Amnesty International publically reported that conditions in the camp were "unacceptable."

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: The most recent parliamentary elections, held in 2010, were generally free and fair. Parliament elected Marcus Stephen president. In November 2011 Stephen resigned after another parliamentarian alleged he had taken kickbacks (see section 4), and Freddie Pitcher replaced him as president. Pitcher lost a parliamentary no-confidence vote after a progovernment parliamentarian switched to the opposition, and parliament elected Sprent Dabwido president. On July 13, Parliament amended the constitution to add a 19th member of parliament who would be elected during the next general election in 2013. This amendment was a priority of the president to end frequent parliamentary deadlocks.

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

Participation of Women and Minorities: Although women are not prevented from participating in politics by law, participation by women is significantly less than men. No woman stood as a candidate in the parliamentary elections. The country's permanent representative to the United Nations and ambassador to the United States was a woman. Women held some senior civil service positions, including the head of the civil service, the secretary for justice, the director of women's affairs, the secretary for home affairs, and the 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, but there are no financial disclosure laws or specific government agencies responsible for combating government corruption. In November 2011 opposition parliamentarian David Adeang, the subject of corruption allegations in 2007, asserted that then president Stephen had sought kickbacks from foreign phosphate dealers. Stephen denied the allegations. There was no investigation into the matter.

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. In 2011 the government prepared its first public spending and financial accountability assessment.

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

The government did not restrict establishment or operation of local human rights organizations, but no such groups existed. No international human rights organizations maintained offices in the country, although there were no government restrictions.

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

The constitution prohibits discrimination on the basis of race, gender, disability, language, sexual orientation or 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 cases were vigorously prosecuted by the courts. 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. Assault involving bodily harm receives 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.

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

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children. 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.

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. In practice, however, societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. 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 either unemployed (25 percent), undertaking other activities, or not able to work (29 percent). The Women's Affairs Office is responsible for promoting professional opportunities for women.

Children

Birth Registration: Citizenship is derived from one's 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, but at least one offender was convicted in 2011 and was serving 18 months in prison.

Child 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. Early marriage was not a problem.

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

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

Trafficking in Persons

There were no confirmed reports of human trafficking during the year.

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 in 2009 began installing mobility ramps in 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 rudimentary classes for a small group of students with disabilities. Such classes were held at a teacher's home.

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.

National/Racial/Ethnic Minorities

More than 95 percent of the population reports their ethnicity as Nauruan. Persons of Chinese and other Asian backgrounds constituted slightly more than 3 percent of heads of households, and i-Kiribati made up 1.5 percent. Unlike in some previous years, there were no reports during the year of violence targeting minorities.

Societal Abuses, Discrimination, and Acts of Violence 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. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity, but stigma or intimidation could be a factor in preventing reporting of discrimination or abuse.

Other Societal Violence or Discrimination

There were no reports of violence or discrimination against persons based on HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the right of citizens to form and belong to trade unions or other associations. However, the country lacks formal trade unions and labor laws relating to unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions. The right to strike is not protected, prohibited, or limited by law. There were no strikes during the year.

Although there are no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers, who constituted more than 90 percent of salaried workers, are governed by public service regulations.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, and 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 17. 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.

d. Acceptable Conditions of Work

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 governing overtime 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. The phosphate industry had a history of workplace health and safety requirements and compliance, but with the decline of the industry, enforcement of these regulations was lax. A gradual revival of the industry, which continued during the year, was accompanied by accusations that unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard. The government did not act to eliminate the problem, citing high costs.