

NAURU 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. Parliamentary elections held on June 8 were generally deemed free and fair after political turmoil during the year. President Baron Waqa was elected from among the 19 parliamentarians. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

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.

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. The government affirmed it would permit visits by independent human rights observers and several such visits occurred during the year. International human rights organizations criticized

asylum-seeker detention center conditions. On July 19, asylum seekers at the Australian-run detention center rioted following an announcement that Australia would implement stricter immigration policies (see section 2.d.). Police temporarily detained 150 asylum seekers at the prison and at the police station for questioning. Subsequently, the authorities charged 140 for riot-related offences and released them. On August 26, authorities dropped charges against 10 of the 140.

Physical Conditions: The sole correctional facility is designed to hold as many as 80 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 women prisoners, two dormitory units that can hold another 20 male prisoners, and a main prison that can hold 20 male prisoners. There were 14 male prisoners in detention by August 30. Prisoners had access to potable water.

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 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 permission for religious observance.

Independent Monitoring: The government affirmed it would permit monitoring visits by independent human rights observers, and several such visits took place. The Salvation Army maintained a presence within the detention center to provide humanitarian services.

Improvements: The correctional center was undergoing renovations during the year. The Australian government donated 17 million Australian dollars (\$15.87 million) for the construction of a new corrections facility.

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 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. Authorities inform 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 in practice 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 in practice.

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 in practice.

Freedom of Speech: On May 27, the president declared a state of emergency in advance of the June 8 elections. During the state of emergency, the government limited opposition parliamentarians’ access to the only radio station, which is government-owned, by requiring all politicians to obtain approval from the president prior to making statements to the media. Opposition MPs claimed the media did not interview politicians at all, which combined with the restrictions on making statements, limited their access to the electorate.

Press Freedoms: Several newspapers ceased operations in the past decade, including *Central Star News*, *Nauru Chronicle*, and *People’s Voice* (an opposition

newsletter). There are currently no local independent media outlets and the government exercised control over the content of the government-run outlets.

Censorship and Content Restrictions: All media is government owned, giving the government significant control over what is published and broadcast. During the state of emergency, the president limited political content on the government-owned radio station.

Libel Laws/National Security: The state of emergency declared on May 27 allowed the government to censor media content and to control media coverage of political issues prior to general elections held June 8.

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 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 Telecommunications 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 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 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 September 2012 Australia opened the Nauru Regional Processing Center to detain and process asylum seekers arriving without visas by boat to Australia. On August 29, 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. This MOU removed the possibility for asylum seekers to resettle in Australia.

Durable Solutions: In September 2012 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. On July 19, 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 the destruction of accommodation blocks, the kitchen, and mess hall by early the following morning. Inadequate police forces struggled to deal with the riot that saw nearly half of the 545 asylum seekers escape the detention center. Acting president David Adeang issued an emergency decree granting police powers to private security forces and others to assist in the riot response. Overnight, the authorities passed laws to hold detainees for seven days for questioning without charge.

The main administration buildings, staff facilities, and the recreation center where asylum-seekers accessed medical services, interpreters, computers, phones, and the internet, suffered minor to no damage during the riots. As of September, following the total destruction of Camp One, authorities divided the second camp into two spaces to accommodate former rioters and single males, with the third remaining camp housing eight families including women, some of whom were pregnant, and

children. In 2012 and 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.

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 on June 8, were generally free and fair. Parliament elected Baron Waqa president after months of political turmoil. In February two ministers resigned and joined the opposition, crippling the government. Speaker Ludwig Scotty dissolved parliament March 1 and scheduled early elections for April 6. The Supreme Court declared both actions void. Following Scotty's resignation, the new speaker, Godfrey Thoma, again dissolved parliament on May 23, leaving parliament unable to release treasury funds for government operations. On May 27, former President Sprent Dabwido imposed a state of emergency in response to the economic crisis and set the June 8 election date. A July 2012 amendment added a 19th member of parliament in a move intended to increase political stability.

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. Three women ran in the June 8 general elections and, for only the second time in its history, a woman, Charmaine Scotty, 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, 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.

Whistleblower Protection: The law does not provide protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or fraud, gross mismanagement, abuse of power, or substantial and specific dangers to public health and safety.

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, and 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, 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.

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 that sexual harassment was 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. 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 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 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 is legal in homes, schools, and alternative care settings, but generally is 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 2011 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

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

Trafficking in Persons

As of early 2014, there were no confirmed reports that persons were trafficked to, from, or within Nauru.

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 rudimentary 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 it is likely social stigma led to decreased opportunities for decent work.

In June 2012 the government ratified the Convention on the Rights of Persons with Disabilities. On December 2, the government commemorated the UN's International Day of Persons with Disabilities as a national holiday for the first time.

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 the reporting of discrimination or abuse.

Other Societal Violence or Discrimination

There were no reports of violence or discrimination against persons based on HIV/AIDS, although social stigma or intimidation could be a factor that might prevent such incidents from being reported.

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. Nevertheless, the country lacks formal trade unions and labor laws protecting the exercise of freedom of association rights, including protection from antiunion discrimination. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions, but the law does not prohibit foreign workers from organizing. 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, the law does not afford collective bargaining, and it did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor but does not stipulate penalties. A case of forced labor would be dealt with 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.

d. 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 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 complying with workplace health and safety requirements, but with the decline of the industry, enforcement of these regulations was 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.