

NAURU 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. International observers deemed the July 2016 parliamentary election to be free and fair. Parliament re-elected President Baron Waqa who was also a member of parliament.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: restrictions on internet freedom; harsh conditions for asylum seekers and refugees; domestic violence; and child abuse.

There were no reports that government officials committed human rights abuses, and impunity was not a problem.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

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

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

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

Prison and Detention Center Conditions

There were no significant reports regarding prison conditions that raised human rights concerns. International human rights organizations criticized conditions for

asylum seekers, especially for women and children refugees, at Australia's Regional Processing Center operated by Australian contractors (see section 2.d.).

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions. There were no reports of prisoner deaths.

Administration: The government rejected several visa applications from journalists requesting access to the refugee community and the Regional Processing Center.

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

Independent Monitoring: The government permits prison and detention center monitoring visits by independent human rights observers, and several such visits occurred.

The Regional Processing Center continued to attract substantial regional and international attention. International human rights NGOs including Amnesty International and Human Rights Watch visited the center frequently. There were no reports of journalists from foreign media visiting the center during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The police force, under the Minister for Police and Emergency Services, maintains 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 of Detainees

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 a maximum of 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.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The constitution allows persons arrested or detained to challenge their detention in the Supreme Court, if there is a potential violation of fundamental rights and freedoms.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Some outside of government circles alleged instances of government pressure on the judiciary in cases related to a 2015 protest that turned violent.

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

There continues to be criticism that government officials pressured the judiciary in cases related to a 2015 protest involving 16 persons that turned violent. In August a former cabinet minister who is one of those accused over the protest claimed that the government continued to pressure the courts not to issue subpoenas requested by the defense. Attorney-General David Adeang denied the claims and argued that the decision to recruit a foreign judge belies accusations of political interference.

English common law provides the basis for procedural safeguards. Safeguards include the presumption of innocence, the right to be present at one's own trial, adequate time and facilities to prepare a defense, the right to free interpretation as necessary from the moment charged through all appeals, 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 as necessary "in the interest of justice." Defendants also have the right to confront witnesses, present evidence, not be compelled to testify or confess guilt, and appeal convictions. In many cases officials used bail and traditional reconciliation mechanisms rather than the formal legal process, usually by choice

but sometimes under communal pressure. The law extends these rights to all suspects.

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 or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution and laws prohibit such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press; however, the government owned all media and exercised editorial control over content.

Press and Media Freedom: Authorities continued to apply a 2014 policy under which they charged Australian dollars (AUD) 8,000 (\$5,750) for journalist visas, which critics assert discouraged foreign journalists from visiting the country. The government stated that the fee increase was enacted to raise revenue. In September the government indicated it may waive this fee ahead of a regional Pacific Islands Forum summit to be held in country in 2018.

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

Libel/Slander Laws: The 2016 Crimes Act created new criminal offenses for “unlawful vilification” and “criminal defamation.” Violations of this offense are punishable by a maximum sentence of three years’ imprisonment. There were no

reports of arrests for breach of the 2016 Crimes Act, though critics contended that the new offenses could inhibit free speech.

Internet Freedom

The government sometimes restricted or disrupted access to the internet and continued to enforce a 2015 cyber-crime law by blocking Facebook, citing concerns about child pornography. Nongovernmental organizations (NGOs), international organizations, and embassies raised concerns that the ban on Facebook unduly limited freedom of speech. There were no credible reports that the government monitored private online communications without appropriate legal authority.

The 2015 Cyber Crime Act created new offenses related to child pornography and illegal access to computers or program data. The law also applies to information related to national security, enforcement of criminal law, provision of services related to public infrastructure, and the protection of public safety.

Approximately 50 percent of the population had access to the internet, and it was widely used.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful 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

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

the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: Human Rights Watch claimed numerous incidents of abuse targeting the country's refugee community, including assaults, rapes, and harassment.

The Guardian reported that authorities denied overseas medical treatment for approximately 50 refugees and asylum seekers at the Regional Processing Center. Three of the refugees were women seeking overseas transfer to terminate their pregnancy because terminations are illegal on the island. The Office of the UN High Commissioner for Human Rights and other international human rights organizations repeatedly called for the government and the Australian government to end offshore detention in the country.

In August police arrested and charged a security guard for allegedly assaulting a 27-year-old refugee at the temporary refugee center. In the same month, police arrested several refugees for staging protests at the refugee center. During the protests witnesses alleged that police assaulted two refugees.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The law includes a provision for nonrefoulement. As of December 22, there were approximately 970 refugees and 130 asylum seekers living in the country.

Durable Solutions: In 2012 Australia and the government signed a memorandum of understanding for the government to operate a center to process persons seeking asylum in Australia, and the Regional Processing Center received its first group of asylum seekers in 2012. By August the government had accepted 1,200 asylum seekers including 173 children as temporary refugees in the country. The government grants five-year visas to asylum seekers after they receive refugee determination.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: International observers considered the most recent parliamentary election held in July 2016 to be free and fair. Opposition figures alleged, however, that some changes made to the election law prior to the polls disadvantaged nongovernment candidates. The 19-member parliament then re-elected President Baron Waqa, who was also a member of parliament (MP).

Political Parties and Political Participation: Although political parties have the legal right to operate without outside interference, there were no formal parties. The government suspended five opposition MPs indefinitely and without pay in 2014. Three of the MPs were suspended pending apologies or retractions of comments they made to international media alleging a breakdown of the rule of law in the country. The other two members were cited for disruptive conduct while in parliament. Of the five suspended MPs, four participated in the 2016 parliamentary election and one was re-elected. Three of the former MPs continued to face criminal charges for their roles in a 2015 political protest.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate; however, the participation of women was significantly less than that of men. Four women ran in the 2016 general election and, for only the third time in the country's history, voters elected a woman to parliament.

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

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials.

Corruption: There were no new reports of government corruption, although opposition politicians stated that corruption remained a problem, repeating earlier allegations that the government misused funds provided by a foreign government for refugee resettlement in Nauru.

Financial Disclosure: There are no income and asset disclosure laws for appointed or elected officials.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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.

Government Human Rights Bodies: The Department of Justice and Border Control continued to maintain a Human Rights Section staffed by a human rights adviser, two human rights officers, and a liaison officer from the Secretariat of the Pacific Community's Regional Rights Resource Team.

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

Women

Rape and Domestic Violence: Rape is a crime and carries a maximum penalty of 25 years' imprisonment. The 2016 Crimes Act specifically applies penalties for rape of married and de facto partners. Police were required to investigate all reported rape cases, were generally thought to have fulfilled this responsibility, and the courts prosecuted cases. Human Rights Watch reported that female refugees were subject to sexual harassment and sexual assault, yet such cases were often underreported to police.

The law does not address domestic violence specifically, but authorities prosecuted domestic violence cases 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 did not maintain statistics on the incidence of physical or domestic abuse of women, but police officials said they received frequent complaints of domestic violence. Families normally sought to reconcile such problems informally and, if necessary, communally. Both police and judiciary treated major incidents and unresolved family disputes seriously.

Sexual Harassment: There is no specific law against sexual harassment, but authorities could prosecute harassment involving physical assault under assault laws.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law provides for the same legal status and rights for women as for men, including under family, religious, labor, property, nationality, and inheritance laws. Discrimination in employment and wages occurred with respect to women (see section 7.d.).

Children

Birth Registration: Children derive citizenship if one of their parents is a citizen. 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 in order to receive citizenship, and families generally complied with the law.

Child Abuse: The government does not maintain data on child abuse, but it remained a problem, according to civil society groups. In 2016 parliament passed the Child Protection and Welfare Act which establishes comprehensive measures, including mandatory reporting, to protect children from child abuse.

Early and Forced Marriage: The Child Protection and Welfare Act 2016 prohibits marriage by male and female children younger than 18 years. According to a UNICEF survey of married women between 20 and 24 years, 2 percent married before they were 15 years old, and 27 percent before they were 18 years old.

Sexual Exploitation of Children: The Crimes Act 2016 prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography. The minimum age for consensual sex is 16 years. The Crimes Act 2016 standardizes penalties for sexual exploitation of children and makes intentional sexual intercourse with a child younger than 16 years punishable by 25 years' imprisonment. Sexual

intercourse with a child younger than 13 years carries a penalty of life imprisonment.

The Crimes Act 2016 establishes penalties for taking images of children's private acts and private parts. If the child is younger than 16 years, the maximum penalty is 10 years' imprisonment, and 15 years' imprisonment if the child is younger than 13 years. The same law prescribes even tougher penalties for involving children to produce pornographic material. The maximum penalty if the child is younger than 16 years is 15 years' imprisonment and 20 years' imprisonment if the child is younger than 13 years. The country's Cyber Crime Act 2015 outlaws the electronic publication and transmission of child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's Annual Report on International Parental Child Abduction at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The country does not have a 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 victims 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 Department of Education has a special education adviser who is responsible for education for students with disabilities and 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. The Mentally Disordered Persons Ordinance 1963 grants some legal protections for 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 employment.

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

The Crimes Act 2016 removed homosexual conduct as a criminal offense. The law does not prohibit discrimination based on sexual orientation or gender identity. The law does not specifically cite sexual orientation, but it could be used to aid in the prosecution of bias-motivated crimes against members of the lesbian, gay, bisexual, transgender, and intersex community. There were isolated reports of violence against persons based on sexual orientation and 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 independent trade unions or other associations. It does not prohibit foreign workers from organizing, but it restricts freedom of association for police. 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. Although there are no legal impediments, the law does not afford workers the right to collective bargaining. The law does not prohibit antiunion discrimination.

The country lacks formal trade unions. The transient nature of the mostly foreign workforce hampered efforts to organize trade unions. There is no legal right to reinstatement for dismissal due to union activity, but workers have the ability to seek legal redress through the civil court system. The government effectively enforced the law. Penalties for violations took the form of fines, which were adequate to deter violations.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor. Generally, the government did not effectively enforce the law. The law does not stipulate penalties. Civil courts handle cases of forced labor. There were no reports such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age of employment at 16 years. No regulations govern type of work, occupation, or hours for workers younger than 18 years, nor do they identify hazardous occupations. The Department of Human Resources and Labor is responsible for enforcing the law. The government enforced the law in the public sector but did not conduct any workplace inspections of private businesses.

The only two significant employers--the government and the phosphate industry--respected the law. There were reports some children younger than 17 years 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 and Occupation

Labor laws and regulations do not prohibit discrimination regarding race, color, sex, religion, political opinion, national origin, citizenship, disability, language, sexual orientation, gender identity, age, HIV-positive status or other communicable diseases, or social origin. Discrimination in employment and wages occurred with respect to women. The law does not require equal pay for equal work, and societal pressures and the country's impoverished economic circumstances often limited opportunities for women. 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 household and 40 percent of female heads of household were economically active in either paid or unpaid work, according to the Secretariat of the Pacific Community. There were no reports the government took any specific action to prevent employment discrimination.

e. Acceptable Conditions of Work

The minimum starting salary for public-sector employees is approximately AUD 1.80 (\$1.30) per hour. 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.

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 limit to the maximum number of accumulated overtime hours and no prohibition on excessive or compulsory overtime for workers in the public sector. There are no specific regulations that govern overtime or overtime pay for private-sector workers.

The government sets some health and safety standards, which are current and appropriate for the main industries. The law does not provide workers the right to remove themselves from a hazardous workplace without jeopardizing their employment.

The Department of Human Resources and Labor enforced the laws in the public sector, but no law governs workplace health and safety standards overall. The law allows the ministry the right to inspect a workplace at any time. Authorities can charge an employer with a criminal offense if found to be in violation of the law or the provisions of an employment contract, which was sufficient to deter violations.

With the decline of the phosphate industry, enforcement of workplace health and safety requirements 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.