

NAURU 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. Parliamentary elections held in 2013 were generally free and fair. The 19 members of parliament elected Baron Waqa, also a member of parliament, as president. President Waqa survived a vote of no confidence in January 2014 after the opposition alleged judicial interference. Civilian authorities maintained effective control over the security forces.

There were some allegations of government corruption and instances of domestic violence. International human rights organizations expressed concern over the treatment of asylum seekers and conditions at the Australian-run regional processing center.

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

There were no reports 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 or Unlawful Deprivation of Life

There were no reports 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 government officials employed them.

Prison and Detention Center Conditions

Prison conditions generally met international standards. International human rights organizations criticized conditions for asylum seekers at Australia's regional processing center operated by Australian contractors.

Administration: Prisoners and detainees did not have an ombudsperson who served on their behalf. Instead, 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. Government representatives made weekly visits to the prison, and police assisted in investigations of prisoner complaints when necessary.

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.

Independent Monitoring: The government permits prison and detention center monitoring visits by independent human rights observers, and several such visits occurred during the year. Authorities appeared to discourage visits by independent media reporters who wished to visit the country (see section 2.a., Press and Media Freedoms).

Critics cited a culture of secrecy within the regional processing center.

Improvements: In October the government adopted a comprehensive "open center" approach at its regional processing center and removed all curfew restrictions on asylum seekers. Asylum seekers are now free to move around the island. The government has also expedited refugee claims processing and adopted a number of measures to promote the integration of refugees into the local community, including employing 30 asylum seekers as community liaison officers for the police.

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 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. 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 (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. 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 Interference with Privacy, Family, Home, or Correspondence

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

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.

Freedom of Speech and Expression: In May the government amended the Criminal Code to criminalize hate speech. Under section 244A, a person who makes a statement or publishes material that “coerces, intimidates, harasses, or causes emotional distress to another person; or uses language that is threatening, abusive or insulting in nature and with the intent to stir up racial, religious or political hatred...is guilty of an offense punishable by a maximum of seven years imprisonment.”

Press and Media Freedoms: Authorities raised the fee for journalist visas from A\$200 (\$145) to A\$8,000 (\$5,800) in January 2014 and stated the fee increase was intended to raise revenue. The fee deterred foreign journalists from visiting the country, and the government rejected several visa applications from journalists requesting access to the refugee community and the regional processing center. In October the government approved access for an Australian journalist, the first international journalist granted press access during the year. Over the years all independent, privately owned media outlets ceased operation. This apparently was due to economic conditions and not government actions.

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

Internet Freedom

The government sometimes restricted or disrupted access to the internet. For instance, authorities blocked access to Facebook from April. President Waqa cited concerns about child pornography to justify the government's action. Nongovernmental organizations (NGOs), international organizations, and embassies raised concerns about the government limiting freedom of speech. There were no credible reports the government monitored private online communications without appropriate legal authority. Internet access was available and widely used. According to private-sector sources, 64 percent of the population accessed the internet in 2014.

The government passed a Cyber Crime Act in May that created new offenses related to child pornography and to illegal access to computers or program data. The law applies to information related to national security, enforcement of criminal law, provision of services related to public infrastructure, and the protection of public safety. After media leaked an e-mail from Berilyn Jeremiah, operations manager at the regional processing center for asylum seekers, the government used the new law to raid the office of NGO Save the Children twice in October and to seize computers in an effort to learn the source of the leaked document. Save the Children stated there was no evidence its staff leaked the e-mail.

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 freedom 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 for its citizens. The government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) 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.

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.

Following the re-opening of the Regional Processing Center in 2012 and the adoption of the memorandum of understanding (MOU) with Australia in 2013, the number of asylum seekers in the country increased. As of October authorities reported 808 asylum seekers lived in the country as refugees. UNHCR stated 87 of these refugees were children.

Refugee Abuse: International media reported several cases of alleged rape of female refugees at the regional processing center. In February an Australian Immigration Department-commissioned inquiry reported on allegations of drug dealing, sexual assault, and rape related to the processing center. In August an Australian Senate select committee released a 207-page report on conditions at the processing center and recommended a “full audit” of allegations of sexual abuse, child abuse, and other criminal conduct. As of November authorities were investigating these allegations but had closed some cases due to lack of evidence.

In October Australian media reported that authorities transferred a female detainee to Sydney, Australia, for medical treatment. She was reportedly one of two Somali women who alleged that two Nauruan men raped them at the processing center. Media claimed she came to Sydney for an abortion, a procedure that is illegal in Nauru. Australia returned her to the country on October 16 after she decided not to have an abortion. On October 28, the Australian immigration minister told media she would return to Australia for another medical consultation.

Access to Basic Services: Within the processing center, the Australian government, through contractors and NGOs, provided basic services, including food, shelter, water, and sanitation and health infrastructure, as well as health care,

education, and psychosocial counseling services. Once processed, refugees could move to purpose-built communities with water, electricity, and shelter, from which they had access to education and health care and could seek employment, while maintaining access to services at the regional processing center.

Durable Solutions: In 2012 Australia and the government signed an MOU 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 October the government had accepted 808 asylum seekers as temporary refugees in the country. Another 380 asylum seekers were awaiting or contesting refugee determination. The government grants five-year visas to asylum seekers who receive refugee determination. During the year international human rights organizations (including foreign citizens who formerly worked in the regional processing center) criticized living conditions at the processing center, the lack of mental health treatment, and lengthy processing times.

After Australia reached agreement with Cambodia to resettle refugees on a voluntary basis from the processing center, four refugees from the processing center arrived in Cambodia in June.

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 based on universal and equal suffrage, and citizens exercised that ability.

Elections and Political Participation

Recent Elections: The most recent parliamentary elections, held in 2013, were generally free and fair. Parliament elected Baron Waqa, also a parliamentarian, as 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 canceled 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.

The government suspended five opposition members of parliament (MPs) indefinitely and without pay in 2014. Three of the MPs were suspended pending apologies or retractions of comments they made to the 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. The suspension of these MPs continued during the year, and the government canceled the passports of all five members in June, citing “national security” concerns. Three of the five MPs also faced criminal charges resulting from their participation in a political protest outside parliament in June. Opposition MPs and their supporters alleged these charges were politically motivated.

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 2013 general elections and, for only the second time in the country’s history, voters elected a woman to parliament. The country’s permanent representative to the United Nations, who also served as ambassador to the United States, was a woman. Women held seven senior civil service positions.

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. Opposition MPs and their supporters made numerous allegations of government corruption during the year.

Corruption: Australian Federal Police continued investigations of allegations that Getax, an Australian-based mining company, bribed local politicians to obtain support for its phosphate mining operations in 2010. The government rejected these allegations.

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

Public Access to Information: No legal provisions provided for public access to government information, but the government provided access to budget documents and other government information through its Government Information Office.

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.

Government Human Rights Bodies: In 2014 the Department of Justice and Border Control opened a new Human Rights Section staffed by a human rights advisor, 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

The constitution prohibits discrimination based on race, place of origin, political opinions, color, creed, or gender, and the government generally enforced these provisions.

Women

Rape and Domestic Violence: Rape is a crime punishable by a maximum of life imprisonment. The law does not specifically identify spousal rape as a crime, but police investigated and filed charges when victims reported allegations of rape against a spouse. Police investigated all reported rape, and the courts prosecuted cases. Statistics related to rape cases were not available.

The law does not address domestic violence specifically, but authorities prosecute 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 kept no statistics on the incidence of physical or domestic abuse of women, but police officials said they received frequent complaints of domestic violence. Reports from women's organizations indicated sporadic abuse occurred, often aggravated by alcohol use. 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. 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; manage their reproductive health and have access to the information and means to do so, free from discrimination, coercion, and violence. The government 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 2002-12 skilled medical attendants attended 97 percent of births. In the period 2007-11, the country had a reported maternal mortality ratio of 300 deaths per 100,000 live births, according to Commonwealth Health Online. It was unclear what factors led to such a high incidence.

Discrimination: The law provides for the same legal status and rights for women as for men, including under family, labor, property, nationality, and inheritance laws. Discrimination in employment and wages occurred with respect to women (see section 7.d.). 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: The government does not maintain data on child abuse, but it remained a problem, according to civil society groups. The Education Act of 2011 outlaws corporal punishment in schools. Corporal punishment was legal in homes and alternative-care settings.

Early and Forced Marriage: The legal minimum age of marriage is 18 years for boys and 16 years for girls. Children younger than the legal minimum age need written consent of their parents to marry. UNICEF reported that from 2002-12, approximately 30 percent of girls married before age 18 years. There were no known government efforts to prevent the traditional practice of early marriage.

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

The country’s Cyber Crime Act enacted in May 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.

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 the country 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 government provides a welfare benefit to persons with disabilities. As part of efforts to promote participation in society by 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. 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

Consensual male same-sex sexual conduct is illegal, but there were no reports of prosecutions directed at lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons. The law does not prohibit discrimination based on sexual orientation or gender identity. The Criminal Code (Amendment) Bill, enacted in May, does not specifically cite sexual orientation, but it could be used to aid in the prosecution of bias-motivated crimes against members of the LGBTI 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 trade unions or other associations. It does not prohibit foreign workers from organizing, but it restricts freedom of association for members of 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 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. 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. Civil courts would 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, which the only two significant employers--the government and the phosphate industry--respected. The government enforced the law in the public sector but did not conduct any workplace inspections of private businesses during the year.

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 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. 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 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.

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 is 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 Saturday and Sunday as holidays. There are provisions for premium overtime pay 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 data on the number of labor inspectors it employed. The law allows the ministry the right to inspect a workplace at any time. Authorities can charge with a criminal offense an employer found to be in violation of the Workers Act or the provisions of an employment contract.

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.