

# NAURU 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Nauru is a constitutional republic. International observers deemed the 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.

Human rights issues included censorship.

There were no reports that government officials committed egregious 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 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 of 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 or prisoner abuse.

Administration: There were no reports that authorities failed to conduct proper investigations of credible allegations of mistreatment.

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 nongovernmental organizations visited the center frequently to conduct inspections. There were no reports of journalists from foreign media visiting or receiving permission to visit 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 or 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 force, 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.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

In March the government terminated a bilateral agreement to use Australia's Court of Appeal as the top appellate court for the country. A new domestic Court of Appeal, staffed by non-Nauruan judges, was fully functional by October. Some human rights groups claimed this move would allow the government to exert more control over the court's conduct of cases, specifically the cases related to the violent protest (see below).

### **Trial Procedures**

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

English common law provides the basis for procedural safeguards, including 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. There was no legal provision for traditional reconciliation mechanisms; however, as a mitigating factor in sentencing, apologies and reconciliation frequently played an informal role in criminal proceedings. This was sometimes due to communal pressure. The law extends these rights to all suspects.

Criticism continued that government officials pressured the judiciary in cases related to a 2015 protest involving 19 persons that turned violent, although Attorney General David Adeang denied the claims and argued that the decision to recruit a non-Nauruan judge belied accusations of political interference.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

The judiciary generally functioned in an independent and impartial manner in civil matters. Individuals or organizations have access to the court 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 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: In May the government waived the 8,000 Australian dollars (AUD) (\$5,780) journalist visa fee for 30 foreign journalists covering the September summit of Pacific Islands Forum leaders. The government, however, banned journalists from the Australian Broadcasting Corporation from entering the country for the summit, claiming the network published biased and false reporting about the country.

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

Libel/Slander Laws: By law “unlawful vilification” and “criminal defamation” are punishable by a maximum three years’ imprisonment. There were no reports of arrests for breach of the law, although critics contended the new offenses could inhibit free speech.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

The law makes online child pornography illegal and defines 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. In January, President Baron Waqa announced the government lifted restrictions, pursuant to the 2015 law, that it had cited previously to block Facebook.

According to the International Telecommunication Union, approximately 54 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/](http://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 United Nations 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: On October 13, the Office of the United Nations High Commissioner for Refugees called for the government and the Australian government to end offshore detention and for the immediate evacuation of the remaining refugees and asylum seekers, citing a deteriorating health situation in the refugee facilities. The call came after the government

expelled global medical charity Medecins Sans Frontieres from the country, calling its members “political activists for refugees.”

According to media reports, children at the Refugee Processing Center indicated growing risks of self-harm, suicide attempts, or refusing all food and fluids. In August a 14-year-old male refugee who went on a hunger strike for more than 14 days was flown to Australia for treatment after he became critically ill. A 12-year-old female refugee was reportedly hospitalized in the country for injuries sustained after she attempted to set herself on fire.

### **Protection of Refugees**

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

Durable Solutions: 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 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 re-elected President Baron Waqa, who was also a member of parliament.

Political Parties and Political Participation: Although political parties have the legal right to operate without outside interference, there were no formal parties. In September the court granted a permanent stay of the criminal charges against three former members of parliament facing trial, along with 16 others, for their roles in a 2015 political protest. The permanent stay effectively meant the charges were dropped; however, the government was expected to appeal.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate; however, participation by women was significantly less than by 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 said corruption remained a problem, repeating earlier allegations 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 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 law specifically applies penalties for rape of married and de facto partners. Police are required to investigate all reported rape cases.

They generally did so, and the courts prosecuted cases. 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.

Both police and judiciary treated major incidents and unresolved family disputes seriously.

Human Rights Watch reported that female refugees faced sexual harassment and sexual assault, yet such cases often went unreported to police.

The government did not maintain statistics on the incidence of physical or domestic abuse of women, but police officials stated they received frequent complaints of domestic violence. Families normally sought to reconcile such problems informally and, if necessary, communally.

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

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides the same legal status and rights for women and 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. The law establishes

comprehensive measures, including mandatory reporting, to protect children from child abuse.

Early and Forced Marriage: The law prohibits marriage by persons younger than age 18 years. According to a UNICEF survey of married women age 20 to 24 years, 27 percent married before they were age 18.

Sexual Exploitation of Children: The law 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. There are standardized penalties for sexual exploitation of children; intentional sexual intercourse with a child younger than age 16 is punishable by 25 years' imprisonment. Sexual intercourse with a child younger than 13 carries a penalty of life imprisonment.

The law establishes penalties for taking images of children's private acts and private parts. If the child is younger than age 16 years, the maximum penalty is 10 years' imprisonment, and if younger than age 13, 15 years' imprisonment. The same law prescribes even tougher penalties for involving children to produce pornographic material. The maximum penalty if the child is younger than age 16 is 15 years' imprisonment and 20 years' imprisonment if the child is younger than age 13. The cybercrime law 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.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 were not accessible. The Department of Education has a special education adviser who is responsible for education for students with disabilities and teachers provided classes for a small group of students with disabilities.

The Department of Justice is responsible for protecting the rights of persons with disabilities. The law grants some legal protections for persons with mental disabilities. There were no reports of discrimination against persons with disabilities in 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**

“Homosexual conduct” is no longer a crime under recent legislation. 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 lesbian, gay, bisexual, transgender, and intersex persons. 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 for the right of workers to form and join independent trade unions or other associations. 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 of organizing a strike. The law does not specifically provide for the right of workers to collectively bargain, but it does not prohibit it. The law does not prohibit antiunion discrimination, and there is no legal right to reinstatement for dismissal due to union activity; however, workers may seek redress through the civil court system.

The government effectively enforced the law. Penalties for violations include fines, which were adequate to deter violations.

The country lacks formal trade unions. The transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

#### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor. In general, 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 age 18, 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 minimum age restrictions. There were reports some children younger than age 17 years worked in small family-owned businesses.

#### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations do not prohibit discrimination in respect of employment and occupation. The law requires that public servants receive equal pay for work of equal value and provides for an entitlement to maternity leave after a woman has completed six months of employment. Women working in the private sector do not have a similar entitlement.

Discrimination in employment and wages occurred with respect to women. Societal pressures and the country's general poverty 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 1.80 AUD (\$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.

While no health and safety law exists, 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. 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 labor 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 continued to be lax.