



**General Assembly**

Distr.  
GENERAL

A/HRC/WG.6/5/VUT/1  
23 February 2009

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Working Group on the Universal Periodic Review  
Fifth session  
Geneva, 4-15 May 2009

**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Vanuatu**

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\* The present document was not edited before being sent to the United Nations translation services.

### **Acknowledgement**

This report was prepared by a UPR Committee appointed by the Honourable Bakoa Kaltongga (MP), Minister of Foreign Affairs. The UPR Committee comprised of John Ezra (Chairman - Prime Minister's Office), Lawson Jack Samuel and Mahé Serge Alain (Department of Foreign Affairs), Roline Lesines (Department of Labour and Employment Services), Louis Georges Vakaran (State Law Office), Apisai Tokon (Department of Public Health), Julie Garoleo (Ministry of Lands and Natural Resources); Liku Jimmy (Department of Education); Marie Shem (Department of Women's Affairs), Laurina Liwuslili (Correctional Services Department). The UPR Committee wishes to express its gratitude to the many stakeholders in Government who generously contributed to this report. We also acknowledge the continuous support of the Department of Foreign Affairs, the Department of Labour and the National Statistics Office in undertaking this report. We also extend our appreciation to our respective Director Generals (DGS) and Directors and to the Hon. Minister of Foreign affairs for giving us this wonderful opportunity to let the world know more about Vanuatu's Human Rights Status.

## **I. METHODOLOGY**

### **A. Universal Periodic Review Committee**

1. To draft this Human Rights Periodical Review report, the Government of Vanuatu through the Minister for Foreign Affairs, Honourable Pakoa KALTONGGA has appointed some Government officers to a committee called the Universal Periodic Review Committee.
2. The Government officers are from different Government department and offices which are:

Department of Foreign Affairs

Department of Labour and Employment Services

Department of Health

Correctional Service Department

Department of Women's Affairs

State Law Office

Prime Minister Office

Department of Education

Ministry of Lands and Natural Resources.

### **B. Methods used by the Universal Periodic Review Committee**

3. The Universal Periodic Review Committee used different methods to collect information. One of the prime methods used was to gather information and conduct interviews with Government institutions.

## **II. BACKGROUND AND FRAMEWORKS**

### **A. Background**

4. Before its independence, Vanuatu was known as the Anglo-Franco condominium of the New Hebrides. A condominium was signed in 1906 and a protocol in 1922 by both powers, Great Britain and France, set the conventional framework to govern New Hebrides. New Hebrides, with around 83 scattered islands was divided that time into 4 different districts, Northern District, Central District No.1, Central District No.2 and the Southern district to allow the two powers to administer the country properly. There were three different sets of laws were in operation during that period. The first one was the French Civil Code. Subject of the French Government, when committing a crime they were tried under the French Law. The second law was the Common Law which was applicable to British subjects. The third applicable law was the Joint Regulation which was only applicable when there were disputes between indigenous people. When New Hebrides became independent on 30 July 1980, the name "Vanuatu" was given to the new State. The constitution provides for 3 official languages which are French, English and Bislama.

5. Sub-article 95 (2) of the Constitution of the Republic of Vanuatu provides that:

“Until otherwise provided by Parliament, the British and French laws in force or applied in Vanuatu immediately before the Day of Independence shall on and after that day continue to apply to the extent that they are not expressly revoked or incompatible with the independent status of Vanuatu and wherever possible taking due account of custom.”

6. Vanuatu is a Parliamentary Democracy with a population of approximately 235,077.<sup>1</sup> The Constitution provides for parliamentary elections based on universal suffrage every 4 years. The Parliament elects the Prime Minister as the Head of the Government. An electoral college comprised of the Members of Parliament and the President of the six Provincial Government Councils elect the President of the Republic of Vanuatu, whose powers are largely ceremonial, for a five-year term. The most recent national election was held on 2 September 2008. The Honorable Prime Minister Edward Nipake Natapei’s Government, an eight party<sup>2</sup> coalition, enjoyed relative political stability, surviving four votes of no confidence just three months after the general election.

## **B. Frameworks**

### **1. Legal framework**

7. The Constitution of the Republic of Vanuatu is the supreme law. The provision of Article 5 of the Constitution sets the legal framework which deals with the respect of Human Rights.

#### **(a) The Constitution**

##### **(i) Article 5 (1)**

8. The Republic of Vanuatu recognises, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious and traditional beliefs, political opinions, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public interest in defence, safety, public order, welfare and health:

- (a) Life;
- (b) Liberty;
- (c) Security of the person;
- (d) Protection of the law;
- (e) Freedom from inhuman treatment and forced labour;
- (f) Freedom of conscience and worship;
- (g) Freedom of expression;
- (h) Freedom of assembly;
- (i) Freedom of movement;
- (j) Protection for the privacy of the home and other property and from unjust deprivation of property;

(k) Equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of under-privileged groups or inhabitants of less developed areas.

**(ii) Article 5 (2)**

9. Protection of the law shall include the following:

(a) Everyone charged with an offence shall have a fair hearing, within a reasonable time, by an independent and impartial court and be afforded a lawyer if it is a serious offence;

(b) Everyone is presumed innocent until a court establishes his guilt according to law;

(c) Everyone charged shall be informed promptly in a language he understands of the offence with which he is being charged;

(d) If an accused does not understand the language to be used in the proceedings he shall be provided with an interpreter throughout the proceedings;

(e) A person shall not be tried in his absence without his consent unless he makes it impossible for the court to proceed in his presence;

(f) No one shall be convicted in respect of an act or omission which did not constitute an offence known in written or custom law at the time it was committed;

(g) No one shall be punished with a greater penalty than that which exists at the time of the commission of the offence;

(h) No person who has been pardoned, tried and convicted or acquitted shall be tried again for the same offence or any other offence of which he could have been convicted at his trial.

**(iii) Article 6 (1)**

10. Anyone who considers that any of the rights guaranteed to him by the Constitution has been, or is being or is likely to be infringed may, independently of any other possible legal remedy, apply to the Supreme Court to enforce that right.

**(iii) Article 6 (2)**

11. The Supreme Court may make such orders, issue such write and give such directions, including the payment of compensation, as it considers appropriate to enforce that right.

**(b) Legislations**

12. Parliament has enacted the following legislation to address directly and indirectly human rights issues:

The Criminal Procedure Code [CAP 136]

The Penal Code [CAP 135]

The Police Act [CAP 105]

The Employment Act [CAP 160]  
The Health and Safety at Work Act [CAP 195]  
The Trade Disputes Act [CAP 162]  
The Trade Unions Act [CAP 161]  
The Public Service Act [CAP 129]  
The Vanuatu Red Cross Society Act [CAP 151]  
The Correctional Services Act No. 10 of 2006  
The Public Solicitor Act [Cap 177].

13. Furthermore the following conventions were ratified by the Parliament of the Republic of Vanuatu:

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)  
Convention on the Rights of Persons Living with Disability (CRPD)  
Convention on the Rights of the Child (CRC)  
International Covenant on Civil and Political Rights (ICCPR)  
Forced Labour Convention 1930  
Freedom of Association and Protection of the Right to Organize Convention 1940  
Right to Organize and Collective Bargaining Convention 1949  
Equal Remuneration Convention 1951  
Abolition of Force Labour Convention 195  
Discrimination (Employment and Occupation) Convention 1958  
Worst Form of Child Labour Convention 1999  
Seafarer's Identity Documents Convention 2003.

## **2. Institutional framework**

14. There are various institutions in the country which have been established to promote and protect human rights:

Judiciary

Court of Appeal, Supreme Court, Magistrates' Court, Island Courts and Customary Land Tribunals

Vanuatu Police Force

Department of Labour and Employment Services

Public Service Commission

Correctional Services Department

Office of the Ombudsman

Office of the Public Solicitor

Office of the Public Prosecutor and  
Department of Women's Affairs.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS**

#### **A. Arbitrary or unlawful deprivation of life**

15. On 3 March 2007, three people were killed and 20 injured after violence erupted in the Blacksands and Anabrou squatter settlements in Port Vila, the Capital of Vanuatu, between rival groups from Tanna and Ambrym islands. Police arrested 144 people in connection with the violence. Of those arrested, 88 were released due to lack of evidence; 56 were charged and appeared before the Courts on February 2008. The Government addressed these issues by declaring a State of Emergency which remained effective until 18 March 2007.

16. The Government, through the National Disaster Management Office has supplied relief to the Ambrym Community who lost their homes and belongings. The Government has spent an estimated amount of VT 1,000,000 to assist the Ambrym Community during that incident.<sup>3</sup>

#### **B. Prison and Detention Center Conditions**

17. The Correctional Services came into operation on 7 August 2006 to replace the Prison Services which was administered by the Vanuatu Police Force.

18. On 1 December 2008, the detainees published a very detailed report on the abuse of human rights by Correctional Services Officers and the Police. This report covers issues such as unlawful arrest and unlawful custody, right to life, security of the person, freedom from inhuman treatment, freedom from expression were being denied, poor living conditions, poor hygiene, denial of medical care, unlawful use of restraint, denial of visits by relatives, denial of visit by legal counsels, and adult prisoners and Juveniles sharing same facility. The report further exposes the deteriorating structure housing the correctional facilities in Vila, the Capital town amidst the previous reports being undertaken by ESCAP (1995), the Public Works Department (1997) and the Amnesty International (1998).

19. After the publication of the report, the Ministry of Justice and Social Welfare has appointed a Commission of Inquiry to investigate the allegations outlined in the report.

#### **C. Juvenile Justice**

20. In Vanuatu, a child under the age of 10 years is recognized as incapable of committing a criminal offence and a child of 10 years of age or over but under 14 years of age is also presumed to be incapable of committing a criminal offence unless it is proved by evidence that he or she was able to distinguish between right and wrong and that he or she did so with respect to the offence with which he or she is charged.

21. The provision of the Correctional Services Act defines a minor as a person under the age of 16 and an adult as a person of 16 years of age and over. There is no facility at the moment to adjudicate and accommodate juveniles. A minor, when charged and convicted, shares the same facilities with adults.

22. However, under the Correctional Services Act, the Government with the assistance of the NZAid is working on a project to build a new correctional detention centre in Port Vila. This

project would later be implemented in other provinces in the future. The new facility will accommodate around 200 detainees and will address juvenile issues.

#### **D. Warrants**

23. Usually the Court may issue a warrant of arrest. There have been incidents of arrests without warrants in the past. The Constitution<sup>4</sup> provides that suspects must be informed of the charges against them.

24. A system of bail operated effectively; however, some persons who have not been granted bail spent lengthy periods in pre-trial detention due to the backlog of cases pending before the Courts. Detainees were allowed prompt access to counsel and family members. The Office of the Public Solicitor provides affordable legal services to local defendants.

25. To address this issue of backlog of cases, the Chief Justice has issued instructions on the new procedures that provide for a whole month being allocated to civil case and the next month allocated to criminal case to ease the problem.<sup>5</sup>

#### **E. Freedom of Speech and Press**

26. Media Freedom is vibrant in Vanuatu. The Constitution<sup>6</sup> provides for freedom of speech and press, and these rights are generally upheld by the Government.

27. The Government controls the national radio stations and a limited-service television station that broadcasts only to the Capital Port Vila and Luganville, which is a smaller town in the northern part of the Country. A private commercial FM radio station commenced its operation in 2007 and a French monthly newspaper was launched in December 2008.<sup>7</sup>

#### **F. Elections**

28. Elections are administered by the Electoral Commission as provided under the Constitution.<sup>8</sup> The voting system allows a degree of proportional representation based upon geographical regions. Vanuatu is divided into 17 constituencies. Depending on its size, between one and seven seats are allocated to each constituency. In total, there are 52 members of Parliament. All citizens of the age of 18 and over have the right to vote.

29. Elections function according to two fundamental rights: (a) the right to vote and (b) the right to elect a government.

30. However, in Vanuatu these two scenarios are common:

(a) A lot of voters discover on the day of election that their names were not in the electoral rolls, even if they were issued voting cards by the Assistant Registration Officers during the registration period;

(b) Constituencies are represented by Members of parliament from populated areas only while some areas do not have a representative for the period of the life of a parliament.

31. In order to address these two issues outlined above, the Electoral Office is in the process of amending the Representation of the People Act<sup>9</sup> to clearly outline different activity periods such as registration, data collection and compilation, and the period of inspection by the public. All these activities are not specifically outlined in the present Act.

## **G. Government corruption and transparency**

32. The President appoints an Ombudsman to a five-year term after consultation with other political leaders. Since its establishment, the Ombudsman's office has issued a number of reports critical of government institutions and officials. However, it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings.

33. Corruption in Vanuatu is not a new thing in the public sector, but the government has taken necessary steps and has put necessary measures to deal with it. Apparently there are two major causes of corruption in Vanuatu which may be classified under the following classes: (a) economic causes (a government officer may use the government assets allocated to him for personal gain) and (b) political causes (once appointed in a Ministry, a leader may use his power to appoint people from his party to a particular post). In order to address these corruption issues the Government has put in place some mechanisms.

34. The Government has forbidden a leader pursuant to the Leadership Code Act<sup>10</sup> (the Code) from using public money for personal gain,<sup>11</sup> from accepting any loan which he might have an advantage or other benefit, whether financial or otherwise from a person<sup>12</sup> or from bribing a person.<sup>13</sup> The Code also forbids a person to hold any public office or position for which he or she receives a salary if that office or position conflicts with or interferes in any way with the ability of the leader to fulfill his or her principal tasks and duties.<sup>14</sup>

35. Part 4 of the Code provides for leaders to file an annual return of preceding setting out details of the leader's assets and liabilities to the clerk of parliament. Failure to submit annual return may amount to a fine of VT 2,000,000.<sup>15</sup>

36. Part 5 of the Leadership Code Act<sup>16</sup> outlines the role of ombudsman in investigating and prosecuting leaders who have been found to be in breach of the Code.

37. The provisions of the Code relating to economic and financial management are just additional measures to others provided under the Public Finance and Economic Management Act.<sup>17</sup> Measures set out under the PFEM Act are to ensure effective economic, fiscal and financial management and responsibility by the Government; to provide accompanying accountability arrangements, together with compliance with those requirements and to require the Government to produce statements of economic policy, confirmation of adherence to fiscal disciplines prescribed under the Act, budget policy statements, economic and fiscal forecast and updates, financial management information and comprehensive annual reports.

38. Furthermore, an amendment bill under the Parliament (Members' Expenses and Allowances) Act<sup>18</sup> allows a Member of Parliament to request, only 25 per cent of the MPs allocation. During the following quarters, the relevant Member of Parliament must submit a report on the spending of the allowance he received on the previous quarter before receiving the next 25 per cent payment. Under this amendment it will become an offence for a member to provide a false report or false receipt of the spending and the penalty is VT 1,000,000 or a term of imprisonment not more than two years of both. This will ensure transparency in the use of public money allocated to members of Parliament.

39. If the Ombudsman receives a complaint or is of the opinion that a leader is in breach of the code the Ombudsman must investigate and report the conduct of that particular leader. Copies of the report must be submitted to the Public Prosecutor and the Commissioner of Police if the

Ombudsman is of the view that the investigation reveal that criminal offences were committed.<sup>19</sup> Upon receiving the report the Public Prosecutor must consider the report and refer the report to the Police Commissioner if he or she is of the opinion that further investigation is required.<sup>20</sup>

40. There were complaints about the fact that some Ombudsman reports do not end up in court. However, this could be explained by the law and the Court Rules dealing with evidence which oblige the Public Prosecutor to request further investigation in relation to ombudsman reports. And if there is insufficient evidence, the Public Prosecutor would not file a case against the leader concern.

41. So far there is only one case,<sup>21</sup> where the Public Prosecutor has successfully prosecuted a leader following a report that was submitted to him by the Ombudsman. That leader received a three-month imprisonment sentence that was suspended.

42. Furthermore, there is a policy paper ready for consultation to establish a Committee to review the potential for Vanuatu to become a State party to the United Nations Convention Against Corruption, for the Committee to consult both domestic and international organizations and to stock take on the level of support available to implement the Convention and to report the findings to the Government to make a decision to become a party.<sup>22</sup>

## **H. Women**

43. Vanuatu ratified CEDAW on the 8 September 1998 and has presented its report before the United Nations CEDAW Committee in 2007.

44. Violence against women, particularly domestic violence, is common. In order to address this issue, the Government has enacted a Family Protection Act. The purpose of this Act is to preserve and promote harmonious domestic relationships. Men and women are given equal treatment under this Act. Domestic Violence Order and Family Protection Orders may be obtained by the victims of domestic violence and provision is made to punish those who commit domestic violence.

45. The bride price is widely practiced in Vanuatu. However, in 2006, the Malvatumauri National Council of Chiefs' discouraged the practice and encouraged the exchange of gifts between the bride and bridegroom's family.

46. Out of 52 members of Parliament, only one is a woman. From 2001 to 2002, the DWA has run pilot trainings in Port Vila and Luganville on Women and Leadership training. In 2007 and 2008, the DWA has taken up the initiative to run a Voters' Education for women in eight biggest constituencies to boost women's participation in the political arena.

47. One of the major problems has been the lack of women candidates. In 2004 snap election, there were seven women from a total of 223<sup>23</sup> candidates and in 2008 General election; there were 18 women from a total of 328 candidates.

48. Together with the WEDO, UNIFEM launched a "50/50 Women in Government: Get the Balance Right Campaign" to achieve equal representation of women in government in Asia Pacific region by 2005. Other campaign partners included regional NGOs, the CLD and the CAPWIP. The initiative is part of a global advocacy campaign demanding that the Governments fulfil their commitments to achieve 30 per cent representation of women in cabinet ministries, and local authorities by 2003 and equal representation by 2005.<sup>24</sup>

49. Resolutions of a workshop on Special Measures for Women in Papua New Guinea last year recommended and agreed that to ensure women representatives are put back or re-instead into Provincial Government Councils as nominated members. The Department of Local Authorities has taken this recommendation seriously to ensure the equal participation of men and women in decision making and also included provisions of nominated members in the Provincial budgets for 2009. The Department of Women's Affairs is to consult with relevant women groupings and advise the Provincial Government Councils of who the representatives are.

50. Women own a total of 584 leaseholds and are joint owners of 656 leaseholds totaling up to 1,240 leases being wholly owned and jointly owned by women. It should also be noted that on some islands like Pentecost, women own land. There are a total of 4,398 leases under the names of individuals and companies and women own 28.2 per cent of the total leases.<sup>25</sup>

### **I. Acceptable conditions of work**

51. Vanuatu is a member of ILO and has ratified seven ILO conventions.<sup>26</sup>

52. The Trade Unions Act<sup>27</sup> makes provision for workers to join unions if they wish to do so. At present there are two active registered trade unions, namely the VNWU and the VTU. There is also a VCTU which the two mentioned unions fall under.

53. The Trade Disputes Act<sup>28</sup> clearly outlines the processes in which disputes should be settled. From 2006 to 2008, the workers through the VNWU have served several Notices to Strike to the Commissioner of Labour as per the requirements of 33 (a) of the Trade Disputes (Amendment) Act.<sup>29</sup> These cases were peacefully settled through conciliations and arbitrations as per the requirements of the Act.<sup>30</sup>

54. To promote the employment status of workers in Vanuatu, the Government of Vanuatu has increased the minimum wage under the Minimum Wages Act,<sup>31</sup> which used to be at the rate of VT 20,000 per month (US\$165.49) to VT 26,000 per month (US\$215.14), through an Order which became effective on the 13 October 2008.

55. The Parliament also passed an amendment to the Employment Act<sup>32</sup> in 2008 and the President of the Republic of Vanuatu has referred the amendment to the Supreme Court of Vanuatu for Constitutional Review. The amendment provides for the increase of annual leave, maternity leave on full pay and severance payment to be paid at the rate of two months per year of service.

56. The Government is also in the process of replacing its existing Health and Safety at Work Act<sup>33</sup> and to replace it with a new legislation, namely the Occupational Safety and Health Act which complies with the ILO standards.

57. The Department of Labour in collaboration with ILO is actively working on programs, trainings and placements of unemployed youths in order to address the youth unemployment in Vanuatu.

58. The Government has signed a Memorandum of Agreement with the Government of New Zealand on Seasonal Employment. This Agreement has really boosted the economy of the country and has reduced the unemployment rate in Vanuatu.

59. In the Public Service sector, there have been some legislative changes done for the betterment of public servants' working conditions. In 2006, the Government Remuneration

Tribunal Act was amended and Public Servants remunerations increased. In 2008, the PSC amended the PSSM in order to ensure that the public servants' remunerations and entitlements are in compliance with the changes made by the Government Remuneration Tribunal.

### **J. Persons with disabilities**

60. The Government of the Republic of Vanuatu has ratified the Convention on the Rights of Persons with Disabilities and that Convention has become part of the national legislation on the 23 June 2008 and is now referred to as the Convention on the Rights of Persons with Disabilities (Ratification) Act No. 25 of 2008.

61. At present, one of the six provincial governments<sup>34</sup> has come up with new initiatives to formulate new policies and allocating appropriate financial backup to address disability issues.

62. In order to address the issue of accessibility by the people living with disability, the Government has a draft Building Code to provide appropriate access to people with disability.<sup>35</sup>

63. The Vanuatu Institute of Teacher Education (VITE) has introduced special education in the curriculum to train teachers to teach and assist children with disability.<sup>36</sup> The Department of Education has appointed a Special Education officer to look into the issue within the Education sector.<sup>37</sup>

64. The Ministry of Justice and Community Services is currently undertaking a restructuring exercise to include for the first time a disability desk officer within the Department of Women's Affairs.

### **K. Access to education**

65. Access to education was limited in some islands of Vanuatu in terms of classroom spaces, financial constraint, remoteness, available services, qualification and teacher's commitment.

66. In 2006, the Ministry of Education became the first Government Organization to lead and engage in a SWAP, which led on to the development of VESS 2007-2016.

67. The VESS builds on the strengths of previous plans such as the PAA, MDG, EFA 2001 - 2015, Education Master Plan and the Education Act No. 21 of 2001. VESS also moves into a new future where Ni-Vanuatu people take fuller control of the development of education in the country.

68. VESS 2007-2016 identifies seven goals for the development and expansion of the education sector over the next 10 years and two of the priority areas are to improve access to education and to start work towards piloting free and compulsory education in the country.

69. Currently in Vanuatu, we have a total of 435 primary schools and 81 secondary schools. Every year the government of Vanuatu commits significant resources to the education sector in terms of school grants and providing teachers to 387 primary schools and 61 secondary schools that are owned by the government and church assisted education authorities. Over the past three years (2005-2007) education shares of the national budget has been gradually increasing from 21.3 per cent in 2005, to 23 per cent in 2006 and 25.8 per cent in 2007. This increased in funding for the education has reflected the high priority placed on education by the Vanuatu Government.

70. According to a research carried out by the Language Department of the University of the South Pacific (USP), Emalus Campus, Vanuatu's Indicative Literacy Rate is 33 per cent and its Indicative Numeracy Rate<sup>38</sup> is 38.2 per cent

71. In 2007, the survival rate to year six was 59 percent. After the National Year Six Examinations, there is a decrease in the survival rate, where 46.2 per cent of pupils survive to start year seven. The pupil dropout was not only due to the high failure of year six examinations, but is also due to the economic, social and financial impacts. For instance, parents' choice of choosing which child should attend and which should not.

72. The Ministry of Education has in place a Gender Equity in Education Policy 2005-2015. Attention focused on ensuring that both males and females benefit equally from their participation in education with the goal to provide equal opportunities for boys and girls in education.

73. In 2007 the Ministry of Education has reported 47 per cent of female enrolled in primary education and 50 per cent in secondary education. In 2008 the Scholarship Unit under the Ministry of Education has reported providing 38 per cent of new awards to young female students.

74. Over the years, Save the Children Vanuatu Office has been working for children's' rights in Vanuatu. Since July 2008, a Child Protection Baseline study is currently being undertaken in Vanuatu by UNICEF Pacific to review the current situation of children in terms of their protective environment. The Ministry of Education and other government organization such as the Ministry of Health and Ministry of Youth were represented within the Child Protection Baseline Study Steering Committee.

75. The Ministry of Justice and Community Services has now taken the initiative to create a Child Desk Officer within the DWA.

#### **L. Access to land, water and electricity**

76. The Ministry of Lands and Natural Resources through current development policies is taking active steps to implement in coexistence the four conventions ratified by the Vanuatu Government: CRC, CEDAW, CRPD and ICCPR.

77. Land Management policies capture the expectations of the National Land Summit of 2006 which resulted in 20 resolutions. The resolutions covered issues such as: customary land ownership, lease agreements, physical planning, sustainable development, enforcement, awareness, fair dealings and the powers of the Minister, strata titles, agents (middle men) and public access. The resolutions were endorsed by the Council of Minister in 2007 and a committee was established to coordinate and direct the implementations of the summit's resolutions.

78. As part of the review process a 12 months Short Term Land Reform Project completed at the end of 2008 focused on issues such as: land lease audits, raising awareness to the public, review of legislations such as: Land Lease Act, Land Acquisition Act, Strata Title Act, Valuation Act, Land Survey Act and the Lands Tribunal Act and also review of land lease administrative systems and the re-zoning of Luganville town. The Australian Government and the New Zealand Government will be major financial contributors in the land reform project for the next three to five years. The long term focus will be on: informed customary landholders, participatory governance and effective and enabling services. This program will have more

emphasis on capacity building for customary ownership groupings to make rational decisions on the usage of land to benefit parties in the long term.

79. The Department of Geology, Mines and Rural Water Supply is mandated by the Water Resources Act of 2002. This Act gives a guide to conservation and utilization of water resources in Vanuatu. Currently, the Ministry has approached Unelco<sup>39</sup> Vanuatu through a Concession Agreement on specific areas such as: access and exclusivity, reporting, service quality, tariff indexation, tariff reset, special fund and penalties.<sup>40</sup>

80. A MOU was signed between the Department of Geology and Rural Water Supply and the China Earthquake Administration to collaborate in upgrading the Vanuatu seismic network. Another MOU was drafted between IRD and the Department of Geology and Rural Water Supply for partnership in executing geological researches in Vanuatu. The last agreement drafted was between the Department and Massey University on establishment of volcano-seismic monitoring network, but funding is yet to be received.<sup>41</sup>

81. Vanuatu currently has Concession Agreements with Unelco Vanuatu Limited for: Port Vila, Luganville, Lakatoro and Isangel and Lenakel areas. The Government of Vanuatu has recently established a URA to manage and coordinate Port Vila water supply and electricity within the Concession areas. The International Water project funded by the Global Environment Facility through SPREP was implemented by the Environment Unit and completed in February 2008 which aimed to establish sites in selected communities to address cause of coastal degradation through improved coastal and water management and sustainable utilization of living marine resources and to provide to local people monitoring programs to assess deteriorating freshwater protection zones, coastal ecosystems and declining biological resources.<sup>42</sup>

82. An energy policy was formulated and endorsed by the Council of Ministers in 2007 with the following goals:<sup>43</sup>

- (a) An effective and equitable energy planning;
- (b) The provision of reliable and affordable energy services in particularly electrification to the rural population;
- (c) Increase use in renewable energy in Vanuatu;
- (d) An efficient use and supply of energy.

83. The Rural Electrification Master plan<sup>44</sup> has five prime objectives which are:

- (a) Improve quality of life;
- (b) Decentralise both services and management into the rural areas;
- (c) Make communities responsible;
- (d) Introduce appropriate management practices
- (e) Rural electrification to improvise rural development.

### **M. Access to health services**

84. Vanuatu's 1999 Census recorded a population of 186,678. Out of that figure, 95,682 were males, 90,996 were females. Approximately 78.5 per cent of the population still reside in the rural areas. There are two referral tertiary care hospitals, three provincial level hospitals, approximately 100 health centres and 25 dispensaries. Dispensaries are staffed with one registered nurse and one nurse aide, and health centres are staffed with one nurse practitioner, one midwife, one registered nurse and one nurse aide. In some cases, remote dispensaries are staffed with one midwife and one nurse aide instead of one registered nurse and one nurse aide.

85. The aggregate figures show that hospitals absorb about 60 per cent of the workforce followed by around 30 per cent by community health and 10 per cent by the administrative functions at central level.

86. The annual health expenditure (public plus private) is estimated to be VT 6,270 (US\$66) per-capita, which corresponds to 4.1 per cent of GDP.

87. The national Contraceptive Coverage record is between 20 to 30 per cent. The remaining percentage reflects the unmet family planning needs.

88. There are strategies and policies in place to address the following health issues:

Malaria

Mental Health

Tuberculosis

Reproductive Health

HIV/STI/RTI

NCD.

## **IV. ACHIEVEMENTS, CHALLENGES AND CONSTRAINTS**

### **A. Achievements**

89. The Vanuatu Parliament has passed the Family Protection Act and ratified the CEDAW, CRC CRPD and the ICCPR.

90. The Telecom Vanuatu Limited (TVL) previously had the monopoly in sector of telecommunication until the Government opened the mobile phone market in 2007. A new telecommunication company, Digicel Vanuatu started operation in June 2008 and due to the competition between the two companies, mobile phones rates/prices have decreased. People with low income can afford to buy a mobile phone and they can communicate through mobile phone in most remote areas.

91. In terms of media, FM 107, a commercial radio station, was launched in 2007 and a French weekly news paper was launched in December 2008. Francophone communities from the Capital can access information in French language.

92. The Government has requested a French bank to operate in Vanuatu, the BRED Bank. The Bank started its activities in the Capital in 2008. Therefore banking sector became very competitive and grass root people have a wide choice of Banks.<sup>45</sup>

93. The Vanuatu has signed an Agreement with the New Zealand Government concerning the RSE in 2006 and the RSE has been implemented giving over a thousand of Ni-Vanuatu the opportunity to gain seasonal employment in New Zealand.

94. The preamble of the Constitution of the Republic of Vanuatu “proclaims the establishment of the united and free Republic of Vanuatu founded on traditional Melanesian values, faith in God, and Christian principles.” And the motto of the Vanuatu Government is “Long God Yumi Stanap” in English “In God We Stand.” Vanuatu is a Christian country and its people try their best to maintain their Christian values. In 2007, Vanuatu was named “Happiest Country on Earth” by the Happy Planet Index.

95. Vanuatu is privileged to be chosen by the American Government to receive the Millennium Challenge Account (MCA). With this fund the Government is improving its infrastructures which would facilitate the provision of services such as health and education to the Provinces.

96. At the completion of the *Efate Ring Road* which the MCA is currently working on, villages from around Efate Island will find it easier and faster to come to town to have access to services such as schools, health, market house and other essential services.

97. Law and order was generally respected in the last five years.

## **B. Challenges**

98. There are conflicts between human rights and customs and traditions and human rights and Christian values.

99. The political instability is also a challenge for Vanuatu because it causes changes of policies and financial implications.

100. To strengthen the management of the health system at all levels as a priority the health information and research unit of the ministry, making managers at various levels more agile and responsive to the needs of the communities.

101. To set clear targets at all levels and consistently and continuously monitor achievements, the Health Information System needs to be strengthened at all levels to ensure a functioning effective accurate data system for forecasting and planning purposes.

102. The overall challenge for the Government is to:

- (a) Reduce child mortality rates;
- (b) Improve maternal health;
- (c) Combat HIV/AIDS;
- (d) Combat malaria and other diseases.

## **C. Constraints**

103. Due to financial constraints, the Government is facing difficulties in providing free access to education and health services.

104. The monopoly system on the electrification does not provide consumers with a choice on services.
105. Vanuatu is vulnerable to natural disasters such as cyclone, earthquake, sea level rise, tidal wave and volcanic eruption.
106. Vanuatu is faced with limited human and financial resources.
107. Vanuatu is an Archipelago and faces difficulties in improving its infrastructure.

## **V. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

### **A. Key national priorities**

108. The key national priorities of the Government of Vanuatu as expressed in the *Government of the Republic of Vanuatu PAA 2006-2015* are to improve the health status of the people, improve access to services, improve quality of services delivery and make more effective use of resources. To achieve these priorities Government Ministries and Departments took the initiative to develop policies in this regards.

109. In order to provide focus to the vision for a healthy, educated and wealthy Vanuatu, the Ministry of Health initiated the development of a Reproductive Health Policy and Strategy as a necessary action for implementing that vision through multi-sectoral strategies. It was envisioned that this policy was needed to operationalise the Ministry's commitment to the Reproductive Health for all women, men and youth. It will reinforce a recommendation which was made under the *Republic of Vanuatu Master Health Services Plan 2004-2009* which was to "promote child spacing and reduce teenage pregnancy". This include strengthening family planning with Men and Women and improve adolescent reproductive health and sexual health for all; Strengthen primary Health care to deal with Reproductive and Sexual Health issues and strengthen community ownership of these social issues.<sup>46</sup>

### **B. Initiatives**

110. The Government formulates a PAA to assist in developing priority areas which addresses human rights issues.
111. The Government is upgrading infrastructures to provide better service delivery.
112. The improvement of infrastructures stated above will also help the Government improve its service delivery to remote areas in the islands. With the above new infrastructures, it will be easier for the Government to create more school in the Islands, provide more health facilities, build post office, new police posts in remote. The Government is decentralizing some of its offices.
113. In addition to the above, Government Ministries and Departments are increasing their permanent staff numbers and extending their offices to the Islands. The Department of Lands, in this regard, will increase its permanent staffs by 5 per cent<sup>47</sup> this year.
114. The Government has noted in 2007 that only 37.4 per cent of students have enrolled in secondary schools. This may be explained by the high cost of living in the country and by the fact that school fees are expensive. To address this issue, the Government is developing a policy on free education.

115. The Family Protection Act which Parliament has passed last year is an example of the commitment of the Country to uphold the spirit of Article 5 of the Constitution<sup>48</sup> and the substance of these international obligations.

116. The Ministry of Health has developed a Reproductive Health Policy and three-year strategic plan covering eight thematic areas of HIV/STIs, adolescent health, gynaecological morbidities including abortions/infertility, safe motherhood, sexual violence, cervical cancer and family planning with a goal of strengthening services.

117. To try to address the constant changing needs of health an MOU was signed with Westmead Hospital in Australia in 2008 basically with the purpose of assisting in exchange trainings and a separate MOU was signed with the Cuban Government in 2008 for training Ni-Vanuatu as doctors, 17 are currently undergoing medicine training in Cuba.

118. The Ministry of Health is currently undergoing a reform with a taskforce appointed whose mandate is to review and strengthen the ministry's current structure, develop a health sector policy in line with the Public Services SWAP policy, develop a training package for managers, explore the feasibility of setting up a National Health Council including a description of its primary role and function and to review the Ministry's Human Resource in line with Human Resource development and assets inclusive of training plans, equipment replacement/maintenance plans.

### **C. Commitments**

119. Vanuatu has committed itself to adhere to international human rights obligations, by ratifying four human rights conventions namely:

CRC and its optional protocols

CEDAW and its optional protocol

CRPD

ICCPR.

## **VI. EXPECTATIONS OF VANUATU IN TERMS OF CAPACITY BUILDING AND REQUEST FOR TECHNICAL ASSISTANCE**

120. Vanuatu will still uphold the spirit and the substance of the ratified International Conventions and through this report is seeking practical assistance and guidance from the Human Rights Council and the International Community to assist in developing local capacity in the field of international law and Human Rights.

121. With the current situation of the Office of the Ombudsman dealing mainly with complaints against leaders, Vanuatu needs technical and financial assistance to set up a Human Rights Commission to adjudicate over Human Rights issues

122. There is need for technical and financial assistance to assist Vanuatu in its electoral system to introduce an identity electronic registration system to reduce multiple voting and the denial of the right to vote.

123. There is a great need for financial and technical assistance to set up a Juvenile Justice System to gather for juveniles.

## VII. FOLLOW UP TO THE REVIEW

124. After the presentation of the report, the Council of Ministers would be briefed on the feedback and recommendations made by the United Nations Human Rights Council to enable the Government to be able to prioritize human rights issues in conjunction with the PAA.

125. Once these issues are prioritized accordingly, focal points departments and institutions will be identified and notified.

### Notes

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<sup>1</sup> National Statistics Office. 2009, Population Projection by Age and Sex 1999 to 2024.

<sup>2</sup> Vanuaaku Party, National United Party, Union of Moderate Party, National Community Association, People's Action Party, Melanesian Progressive Party, Labour Party and Nagriamel.

<sup>3</sup> Job Esau, Director, NDMO.

<sup>4</sup> Article 5 (2) (c) of the Constitution

<sup>5</sup> Chief Justice Lunabek on 26 October 2008 commemorating the admission of Counsels into the Vanuatu Supreme Court

<sup>6</sup> Article 5 (1) (g) of the Constitution

<sup>7</sup> Daily Post Newspaper, Issue 2451, October 18 2008, Page 1. [www.dailypost.vu](http://www.dailypost.vu)

<sup>8</sup> Article 18 (1) of the Constitution

<sup>9</sup> [Cap 146]

<sup>10</sup> Leadership Code Act [CAP 240]

<sup>11</sup> Section 20 – Leadership Code Act [CAP 240]

<sup>12</sup> Section 21 – Leadership Code Act [CAP 240]

<sup>13</sup> Section 23 – Leadership Code Act [CAP 240]

<sup>14</sup> Section 25 – Leadership Code Act [CAP 240]

<sup>15</sup> Subsection 40(2) – Leadership Code Act [CAP 240]

<sup>16</sup> [CAP 240].

<sup>17</sup> [CAP 244].

<sup>18</sup> [CAP 109].

<sup>19</sup> Subsection 34 (2) Leadership Code Act [CAP 240].

<sup>20</sup> Subsection 35 (1) Leadership Code Act [CAP 240].

<sup>21</sup> *Public Prosecutor v Sope Maautamate* [2002] VUSC 46; Criminal Case No 010 of 2002 (19 July 2002) available at <http://www.pacii.org/vu/cases/VUSC/2002/46.html>

<sup>22</sup> Treaty and Convention Division, Department of Foreign Affairs 2008 Policy Paper.

<sup>23</sup> DWA women in Government Policy 2005-2012.

<sup>24</sup> *Ibid.*

<sup>25</sup> Julie Garoleo, Corporate Services Unit, Ministry of Land and Natural Resources.

<sup>26</sup> C29: Forced Labour Convention 1930, C87: Freedom of Association and Protection of the Right to Organize Convention 1940; C98: Right to Organize and Collective Bargaining Convention 1949; C100: Equal Remuneration Convention 1951; C105: Abolition of Force Labour Convention 1957; C111: Discrimination (Employment and

Occupation) Convention 1958; C182: Worst Form of Child Labour Convention 1999; C185: Seafarer's Identity Documents Convention 2003.

<sup>27</sup> [CAP 161].

<sup>28</sup> [CAP 162].

<sup>29</sup> No.10 of 1995.

<sup>30</sup> Section 26 of the Trade Disputes Act [CAP 162].

<sup>31</sup> [CAP 182].

<sup>32</sup> [CAP 160].

<sup>33</sup> [CAP 195].

<sup>34</sup> Shefa Province (the remaining Provinces are Torba, Sanma, Malampa, Penama and Tafea).

<sup>35</sup> Physical Planning Unit, Ministry of Internal Affairs.

<sup>36</sup> Vanuatu Institute of Teacher Education.

<sup>37</sup> Department of Education, 2008.

<sup>38</sup> Study done by Dr. Robert Early and Helen Tamtam of the University of the South Pacific in November 2007.

<sup>39</sup> The sole provider of water and electricity services in Port Vila and electricity services in other parts of the Country.

<sup>40</sup> Ministry of Lands and Natural Resources Corporate Plan for 2009- 2011.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ministry of Lands and Natural Resources Corporate Plan for 2009-2011.

<sup>44</sup> Ibid.

<sup>45</sup> Other banks include: Westpac Banking Corporation; ANZ Bank; National Bank of Vanuatu.

<sup>46</sup> *Reproductive Health Policy 2008/Reproductive Health Strategy 2008-2010*, Ministry of Health, Government of the Republic of Vanuatu (2008).

<sup>47</sup> *New Policy Initiatives and Cost*, Department of Land- 2008.

<sup>48</sup> Article 5 – *Fundamental Rights* – Constitution of the Republic of Vanuatu.

## ABBREVIATIONS

AM	Amplitude Modulation
AIDS	Acquired Immunodeficiency Syndrome
BRED	Banque Régionale d'Escomptes et de Dépôts
CAPWIP	Centre for Asia-Pacific Women in Politics
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CLD	Centre for Legislative Development
COM	Council of Ministers
CRC	Convention on the Rights of the Child
CRP	Comprehensive Reform Program
CRPD	Convention on the Rights of People Living with Disability
DCO	Development Committee of Officials
DWA	Department of Women's Affairs
EFA	Education for All
ESCAP	Economic and Social Commission for Asia and Pacific
FM	Frequency Modulation
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
IRD	Institut de Recherché et de Développement
MCA	Millennium Challenge Account
MDG	Millennium Development Goals
MOU	Memorandum of Understanding
MP	Member of Parliament
NCD	Non Communicable Diseases
NDMO	National Disaster Management Office
NGO	Non Government Organization
NZAID	New Zealand Aid
PAA	Priorities Action Agenda
PFEM	Public Finance and Economic Management Act
PSC	Public Service Commission
PSSM	Public Service Staff Manual
RSE	Recognized Seasonal Employment
RTI	Reproductive Tract Infections
SPREP	South Pacific Regional Environment Programme
STI	Sexually Transmitted Infections
SWAP	Sector Wide Approach
TVL	Telecom Vanuatu Limited
UN	United Nations
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UPR	Universal Periodic Review
URA	Utility Regulatory Authority
USD	US Dollars
USP	University of the South Pacific
VCTU	Vanuatu Council of Trade Union
VESS	Vanuatu Education Sector Strategy
VITE	Vanuatu Institute of Teachers' Education

VNWU	Vanuatu National Workers' Union
VT	Vatu (Vanuatu Currency)
VTU	Vanuatu Teachers' Union
WEDO	Women's Environment and Development Organisation

