



General Assembly

Distr.: General
7 November 2013

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Eighteenth session
27 January –7 February 2014

Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Vanuatu*

The present report is a summary of 4 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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

Information provided by other stakeholders

A. Background and framework

1. Constitutional and legislative framework

1. Disability Promotion and Advocacy Association (DPA) reported that Vanuatu was the first Pacific country to ratify the UN Convention on the Rights of Persons with Disabilities. Vanuatu had yet to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities² and recommended its ratification.³

2. Transparency Vanuatu (TV) congratulated the Government of the Republic of Vanuatu for ratifying the United Nations Convention against Corruption (UNCAC) on 12 July 2011.⁴

2. Constitutional and legislative framework

3. TV referred to calls for the Government to reconsider Article 74 of the Constitution which provided that the “rules of custom shall form the basis of ownership and use of land” as the rules of custom might be discriminatory where land title was given only to the male or only to the female.⁵

4. TV also reported that Article 5 of the Constitution did not mention any discrimination on the grounds of disability and called on the Government to reconsider the Constitutional framework to include this under the relevant article.⁶

5. TV stated that there is a need for some of the provisions of UNCAC to be domesticated into the national laws of Vanuatu in order to effectively combat corruption.⁷

3. Institutional and human rights infrastructure and policy measures

6. TV called on the Government to develop more anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.⁸

B. Cooperation with human rights mechanisms

Cooperation with treaty bodies

7. DPA reported that Vanuatu had yet to submit its initial report, under the UN Convention on the Rights of Persons with Disabilities, which was currently undergoing consultation with relevant Government and disability stakeholders.⁹

C. Implementation of international human rights obligations, including international humanitarian law

1. Equality and non-discrimination

8. TV called on the government to amend the Constitution and the Citizenship Act to avoid discrimination on the basis of sex, especially with the rules of custom. Although there had been slight changes due to the work of civil society organizations (CSOs), and the Department of Women’s Affairs had pushed forward to help women speak more freely among men in the nakamal or community, more was needed.¹⁰

9. Vanuatu Family Health Association (VFHA) called on the Government to devise innovative strategies to remove obstacles to gender equality and to improve the lives of women and girls so they can have equal opportunity to participate in making decisions that affect their living standards and development.¹¹

10. TV further observed that Vanuatu still discriminated between other countries' citizens marrying Ni-Vanuatu. Generally, Ni-Vanuatu men, who married foreign citizens, could give their spouse and children entitlement to citizenship, but Ni-Vanuatu women could not. An adopted child was automatically a citizen of Vanuatu if his or her adoptive father was a citizen but not if his or her adoptive mother alone was a citizen. Foreign women could gain citizenship if they married a Ni-Vanuatu man but a foreign man could not gain automatic citizenship if he married a Ni-Vanuatu woman. Ni-Vanuatu women could regain citizenship after a marriage breakdown, but Ni-Vanuatu men could not, which was discriminatory against men. This was a violation of the fundamental rights to equality under Article 5 of the Constitution of the Republic of Vanuatu and was also contrary to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹²

2. Right to life, liberty and security of the person

11. DPA reported that the Vanuatu Women's Center's *Study on Violence against Women and Children 2010-2011* revealed that 60 per cent of women experienced physical and/or sexual violence in their lifetime by husbands/partners. The study found more than 1 in 4 women experienced physical violence by non-partners. It also found that 1 in 3 women experienced child sexual abuse under the age of 15, and sexual violence over the age of 15.¹³ Although this data was not disability inclusive, DPA alleged that it highlighted the increased risk and vulnerability of all women and girls, in particular women with disabilities who had much more limited access to legal, health and protection services.¹⁴

12. DPA referred to the *Pacific Sisters with Disabilities at the Intersection of Discrimination Report* which highlighted that women and girls with disabilities were at greater risk of all forms of violence: at home, in their community and in institutions. In particular, women with intellectual disabilities and mental impairment were less likely to access support, refuge or legal redress.¹⁵ Often, those perpetrating the abuse were reportedly immediate family members, carers or in a position of power, which discouraged women and girls with disabilities from reporting for fear they might be further victimized. DPA stated that the abuse therefore remained unrecognized by the public and by policy makers.¹⁶

13. DPA further stated that Vanuatu was currently implementing its *Family Protection Act* which made provision for protection orders, counselling services and education to prevent violence against women and girls. DPA indicated that there was a need: to ensure that women with disabilities were informed of the new law and that protection orders and services target women with disabilities; and for an audit of police stations, courts and safe houses and for urgent action to ensure that those services were accessible and accommodated all disabilities.¹⁷

14. Additionally, DPA indicated that it worked collaboratively with the Department of Women's Affairs to implement the *Family Protection Law*, as people with disabilities were being discriminated against and suffered gender- based violence. In early 2013, the Government of Vanuatu through the Department of Women's Affairs facilitated a three year pilot project in South Santo, Sanma Province, on the implementation of the *Family Protection Act*.¹⁸

15. According to Global Initiative to End All Corporal Punishment of Children (GIEACPC) corporal punishment was lawful in the home and alternative care settings.¹⁹

16. Additionally, GIEACPC reported that there was no provision for judicial corporal punishment in the Penal Code 1981, the Criminal Procedure Code (amended 2003) or the Island Courts Act 1983 (amended 2006); and the Constitution 1980 (amended 2004) recognized the right to freedom from inhuman treatment (article 5). However, corporal punishment was reportedly used in rural areas as a traditional form of punishment favoured by chiefs. GIEACPC had been unable to ascertain the legality of this. Furthermore, in research by UNICEF, police officers reported that they administered corporal punishment in 2% of cases per month where children committed a crime.²⁰

17. GIEACPC reported that corporal punishment was prohibited in schools²¹ and that corporal punishment was not among permitted disciplinary measures in the Correctional Services Act, although there was no explicit prohibition.²²

18. GIEACPC recommended that legislation be enacted in Vanuatu to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.²³

3. Administration of justice, including impunity, and the rule of law

19. TV advised that in the past several years, the operation of Vanuatu's Courts had steadily deteriorated to the point where more than one hundred cases were simply not being dealt with, or judgments had not been given even years after the case had been heard. All of those problems had reportedly created loss of faith and respect in the judicial system. Not only that but such delays had allegedly resulted in the denial of justice to the parties concerned as well as miscarriages of justice. TV reported that the mismanagement of court cases appeared to change from one judge to the other, but the majority of judges and magistrates allegedly showed the same characteristics of problems from delays and mismanagement of cases. The lower level courts at the Island Court level reportedly showed not only signs of mismanagement but also serious issues of alleged corruption amongst the Justices and the Assessors at that court level. TV underlined that such delays and the growing case backlog threatened the judiciary and denied victims and the accused the basic human rights to a fair and impartial trial.²⁴

20. TV recommended to the Government of Vanuatu through the Ombudsman's Office to strengthen its technical cooperation with the Advocacy and Legal Advice Centre (ALAC) and other anti-corruption institutions and ensure those who breach the Leadership Code or other human rights are punished for their actions.²⁵

4. Freedom of expression and right to participate in public and political life

21. TV stated that after the Government ratified the UNCAC, it created a National Media Policy through a Freedom of Information Committee (FOI). This Committee was tasked with spearheading the development of the National Media Policy along with the Right to Information Bill, and implementation plan. The Right to Information Bill provides for the guarantee of the right to information for all persons, the establishment of practical and effective mechanisms supportive of that right and for the promotion of maximum disclosure of information in furtherance of greater transparency and accountability in governance. The Vanuatu National Media Policy had also been discussed and approved by the Council of Ministers Meeting but was still waiting for the Parliament to pass it into law. Thus, TV called on the Government to pass the Right to Information Bill and the National Media Policy so that they become Vanuatu laws and people can follow them effectively.²⁶

5. Right to work and to just and favourable conditions of work

22. DPA stated that due to structural and systemic discrimination women remained in low paying jobs, were subjected to harassment and their safety and health was often compromised in unregulated work. The lack of equal employment opportunity laws and

protective laws remained a challenge. Women with disabilities who were reportedly less educated faced an additional obstacle as a result of their disability: the options for livelihood and opportunities for income generation were very limited.²⁷

23. DPA stated that it ran trainings on economic literacy for rural women with disabilities. The outcomes of those trainings included women with disability selling their products in the streets, to shop owners and even in communities. DPA also established a savings scheme “Yumi save sef scheme” (We can save Scheme). With a total of 175 members, beneficiaries included 54 are women with disabilities.²⁸

24. DPA made recommendations for employment legislation to promote non-discrimination on the basis of sex and disability; provision of equal employment opportunity and a quota for women with disabilities; income generating projects to target women with disabilities; and support to increase opportunities for entrepreneurship and access to loans, credits and saving schemes for women with disabilities.²⁹

6. Right to health

25. According to the VFHA, Vanuatu had made significant progress in achieving the International Conference on Population and Development (ICPD) and Millennium Development Goal (MDG) targets through implementation of the country’s Priority Action Agenda (PAA). The Government had formulated and adopted the National Population Policy, 2011- 2020 which aimed to achieve 4 goals including: reducing the teenage fertility rate and maternal mortality and morbidity; closing the population data gaps and applying analysis of census and survey data to support integrated population-development planning and the National Reproductive Health plan, which addressed reproductive health issues.³⁰

26. VFHA reported that the Government had been actively expanding its collaboration with non-state actors/NGOs to upscale the Reproductive Health care, set up Family Planning (which contributed to reducing maternal & child mortality) and HIV Prevention of Mother to Child Transmission and Voluntary Counselling and testing clinics in all hospitals, health centres, and NGO clinics; human resource development; and was on course to fully integrate family life education (FLE) into school curricular.³¹

27. VFHA commented that indicators showed a reduction in the total fertility rate for women aged between 15-49 years at 3.9 in 2009 from 4.3 in 1999 (census report, 2009).³² Despite the significant progress in the past year, it was clear that many preventable conditions such as teenage pregnancy, maternal and child mortality, and sexual infections including HIV continued to occur.³³

28. With reference to accepted recommendation 40, VHFA expressed concern at: the rising demand for reproductive health services which was largely propelled by the rapid growth in population, with 58 per cent of the population sexually active young people aged below 25 years; the high teenage fertility rate of 66 per 1000 births; the maternal mortality rate estimated at 84 per 100,000 live births; and the high rates of sexually transmitted infections.³⁴

29. According to VHFA, getting family planning and sexual health services to people required the availability of adequate reproductive health (RH) commodity supplies, human power, programmes, facilities and equipment to respond to the growing need. Yet there was a huge national financial gap between what Government contributed and the cost of adequately meeting current need.³⁵

30. According to VFHA, in 2010, Vanuatu spent US\$38 million on health care amounting to US\$ 157 per capita. In 2012, 63% health expenditure was funded by the Government and 37% by external donors. Since 2008, the Government allocation to health had decreased by 4% and the Ministry of Health and a foreign donor combined budget had

decreased by 3%. Those real fiscal decreases, together with increased utilization of health services placed significant pressure on the delivery of health services.³⁶ VDHA reported that donors made financial and commodity contributions, for example, UNFPA had been donating contraceptive commodities for the past decade. The budget for medical supplies was allegedly inadequate at approximately USD4.50 per head per year.³⁷

31. VFHA suggested that the Government: ensure stronger national/political commitment to implementation, undertake more research and analysis of population issues especially the high rates of teenage pregnancy and maternal mortality; build capacity and provide relevant information to the school administration and teachers to fulfil the rights of their students both to attain better health and to prepare them for adulthood and protect them from sexual exploitation and abuse; speed-up implementation of FLE and roll it out to all school levels from year 8 to tertiary; strengthen youth friendly services and peer education programs for out-of-school young people; put the newly graduated nurses on the Government payroll; and include reproductive health commodities, particularly contraceptives on the Government list of essential drugs.³⁸

32. Concerning the implementation of accepted recommendation 41, VFHA indicated that the Government was unable to employ many of the newly graduated nurses, yet the health sector faced a critical shortage of human resources both in terms of numbers and skill mix. The estimated number of doctors, nurses and midwives in 2012 was 1.77 per 1,000 population. A new structure with 1,983 established positions had been approved – that was an increase of 55% on the current 1,280 staff. However, this proposal had yet to be financed.³⁹

33. VFHA also expressed concern at cases of shortage of medicine and particularly contraceptives in the last two years. The annual budget for medicines had remained the same at 115 million Vatu (about USD\$1 million) per year for the last ten years. Donors had provided an additional 100 million Vatu per annum over the last 4 -5 years but this funding did not guarantee continuity.⁴⁰

34. On the right to health, VFHA also made suggestions and called on the Government to: commit sufficient financial and human power support for related policies and programmes by initiating strategies to maximize and supplement available financial resources, including: strengthening partnerships with stakeholders, cost sharing strategies with government departments and private sector, preparing a plan to determine a budgetary requirement for the RH population programme and determining budgetary allocations for each programme; mobilizing international partnerships for assistance; and fairly increasing government support and engagement with non-governmental organisations to scale-up their activities as available funding increases.⁴¹

35. Further comments made by VFHA were that adequate funding would help to address gaps in service delivery such as contraceptives/commodity security, research programmes, and to make care, treatment, contraceptives including emergency pills more accessible to the poor and underserved populations. VFHA also commented that the Government re-look at its priorities, especially the newly created ministries/departments which VFHA alleged did not actually have much impact on the lives of the 80 per cent of the population living in the rural areas, and put more funds into the health sector.⁴²

7. Right to education

36. TV stated that in 2010, the Government of Vanuatu through the Ministry of Education adopted the Vanuatu Education Road Map (VERM) and one of its core policies was the introduction of the Primary Education Grant Policy. This policy aimed to make primary education free from years 1 to 6 as part of the Millennium Development Goals

(Goal 2) and to eliminate barriers that restricted children from attending school, thus making education more accessible than before.⁴³

37. According to TV, most people in Vanuatu did not understand the purpose of the Grant Policy and how it operated. TV called on the Government to carry out more awareness to parents and Parent Teacher Associations at the commencement of each school year including information on what the Grant can and cannot be used for as well as the application of any additional funding they may be asked to contribute towards the schools running costs throughout the year. Further, the Government must also make sure that audits take place every year, to ensure the grant is being applied in accordance with the grant specifications. The right to education in Vanuatu remained a major challenge for the country to achieve.⁴⁴

38. DPA observed that there were some progressive changes in the Education Act which guaranteed free and compulsory education for children with disabilities.⁴⁵ DPA reported that although an inclusive education policy had been launched in Vanuatu in 2011, there had been no implementation. DPA recommended that the Government implement the inclusive education policy as soon as practicable.⁴⁶

8. Persons with disabilities

39. DPA observed that Vanuatu's Constitution guaranteed fundamental rights and freedom for citizens however; it excluded disability as a prohibited ground for discrimination. Currently there was no specific disability legislation.⁴⁷ DPA recommended that Vanuatu strengthen its efforts to implement the Convention on the Rights of Persons with Disabilities by amending the Constitution to prohibit discrimination against persons with disabilities and support the role of disabled persons' organizations; and enact and implement legislation promoting equal rights for persons with disabilities including special measures.⁴⁸

40. DPA reported that the Vanuatu disability policy addressed discrimination against women living with disabilities as a key priority.⁴⁹ DPA recommended that the Government: facilitate a national survey on disability; include disability in census, statistics and data gathering; and commission research on discrimination faced by women with disabilities in employment, violence, health, education, decision making and political life.⁵⁰

41. According to DPA, not enough disability work was being done at the Department of Women's Affairs as they concentrated more on women than on disability. DPA also reported that service providers were not doing enough work to assist people with disabilities. Vanuatu consisted of 83 islands. With a scattered geographical location, transport was very costly. DPA could not reach every island to implement its activities.⁵¹ DPA recommended that the Disability Desk Office be housed under the Prime Minister's office or Ministry of Home Affairs. DPA further recommended that the Government should co-fund disability persons' organizations (DPO's) and service providers.⁵²

9. Right to development

42. With reference to the ratification of UNCAC, TV stated that it was understood that "corruption" was a human rights issue because of the negative effects of corruption on the protection of human rights and on development. TV reported in general that the corrupt management of public resources wasted resources and compromised the Government's ability to deliver an array of services, including health, educational and welfare services, which were essential for the realization of economic, social and cultural rights. As such, TV called on the Government to raise awareness on this point so that people know that their rights are being breached when corruption arises.⁵³

43. TV acknowledged the efforts made so far by the Government in putting in place the Leadership Code Act which guided the leaders to act so as to avoid corruption that would deprive the public from enjoying their rights. However, implementation of the Leadership Code was another issue which the Government needed to strengthen.⁵⁴

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with “A” status).

*Civil society**Individual submissions*

DPA	Disability Promotion and Advocacy Association, Luganville, Santo, Vanuatu;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, United Kingdom of Great Britain and Northern Ireland (UK);
TY	Transparency Vanuatu, Port Vila, Vanuatu;
VFHA	Vanuatu Family Health Association, Port Vila, Vanuatu.

² DPA, p. 1.

³ DPA, p. 3.

⁴ TV, p. 1.

⁵ TV, p. 2.

⁶ TV, p. 2.

⁷ TV, p. 2.

⁸ TV, p. 2.

⁹ DPA, p. 1.

¹⁰ TV, p. 4.

¹¹ VFHA, p.3, table, column 4.

¹² TV, p. 4.

¹³ DPA, p. 1.

¹⁴ DPA, pp. 1-2.

¹⁵ DPA, pp. 1-2.

¹⁶ DPA, p. 2.

¹⁷ DPA, pp. 3-4.

¹⁸ DPA, p. 1.

¹⁹ GIEACPC, paras. 2.1 and 2.5.

²⁰ GIEACPC, para. 2.3.

²¹ GIEACPC, para. 2.2.

²² GIEACPC, para. 2.4.

²³ GIEACPC, p. 1.

²⁴ TV, p. 5.

²⁵ TV, p.5.

²⁶ TV, p. 3.

²⁷ DPA, p. 2.

²⁸ DPA, p. 2.

²⁹ DPA, p. 4.

³⁰ VFHA, p. 1.

³¹ VFHA, p. 1.

³² VFHA, p. 1.

³³ VFHA, p. 2.

³⁴ VFHA, p.3, table, column 3.

³⁵ VFHA, p. 2.

³⁶ VFHA, p. 2.

³⁷ VFHA, p. 2.

³⁸ VFHA, pp.3-5, table, column 4.

³⁹ VFHA, p. 6, table, column 3.

⁴⁰ VFHA pp. 6-7, table, column 3.

⁴¹ VFHA, pp. 6-7, table, column 4.

⁴² VFHA, p. 6, table, column 5.

⁴³ TV, p. 3.

- 44 TV, p. 3.
- 45 DPA, p. 1.
- 46 DPA, p.3.
- 47 DPA, p. 1.
- 48 DPA, p.3.
- 49 DPA, p. 1.
- 50 DPA, p. 3.
- 51 DPA, p.2.
- 52 DPA, p.3.
- 53 TV, p. 2.
- 54 TV, p. 2.
