



VANUATU

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Civil Law Common Law Customary Law	Written	No	Single State	Republic

1. INTRODUCTION

1.1. Vanuatu and Modern Slavery (Human Trafficking)

Vanuatu's administration is increasingly making efforts to eliminate human trafficking. However, gaps remain in its legislative framework and legal systems to prevent and suppress human trafficking.¹

Vanuatu's first prosecution of a trafficking case began in 2019. This case involved the trafficking of Bangladeshi men to Vanuatu for labour exploitation. Monitoring and reporting has remained very limited, and the Government has not reported any new prosecutions since this initial case.

Vanuatu is:

- (A) a destination country in terms of labour exploitation and trafficking for labour exploitation, for both genders, especially in low-skilled work sectors such as construction, fishing, logging, and domestic work, and particularly for migrant workers from Asia; and
- (B) both a destination and a source country with respect to women and children facing sexual exploitation, and labour exploitation in domestic services and hospitality—women and children are trafficked for labour and sexual exploitation internally, as well as abroad.

Vanuatu consists of 83 dispersed islands. A total of 65% of the population depends on subsistence and small-scale agriculture. Vanuatu is prone to natural disasters, regularly experiencing earthquakes, tsunamis, volcanoes, cyclones, and floods. It also is one of the most vulnerable countries in the world to the effects of climate change.²

The prevalence of human trafficking is exacerbated by historic poverty, the increasing threat of climate-related crises, the resulting displacement and forced migration (both internally and overseas), scarcity of employment leading to economic stress, and limited educational opportunities (particularly for women and girls).

1.2. Vanuatu's Policy and Legal Position

Vanuatu became independent on 30 July 1980, after joint British and French administration since 1906. Its laws consist of the Constitution; Acts of Parliament of Vanuatu; Joint Regulations of the British and French administration in existence on 30 July 1980 (unless repealed by the Vanuatu Parliament); all British and French laws in existence on 30 July 1980 (unless repealed by the Vanuatu Parliament); and its customary

¹ See introduction and "Prioritized Recommendations" in U.S. Dep't of State, Trafficking in Persons Report 536-538 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

² Walk Free Foundation, "Murky Waters: A qualitative assessment of Modern Slavery in the Pacific region," available at: <https://www.walkfree.org/reports/murky-waters/>.

laws.³ The legal system is a hybrid, incorporating French civil law, English common law and equity, and customary law.

Laws relevant to slavery, slavery-like conditions, and human trafficking, are primarily contained in five statutes:⁴

1. Penal Code Act (**Penal Code**),⁵
2. Control of Marriage Act,⁶
3. Counter Terrorism and Transnational Organised Crime Act (**CTTOC Act**),⁷
4. Employment Act,⁸ and
5. Immigration Act 2010 (**Immigration Act**).⁹

The Vanuatu Government has adopted policies that are aimed at mitigating the root causes of labour exploitation and sexual exploitation, including:

- Education and Training Sector Strategic Plan 2020–2030. This Plan aims to increase participation in education particularly for children in remote areas, and to foster equal access to education for girls.¹⁰

³ Pacific Inlands Legal Information Institute, “Vanuatu Other Materials,” available at: http://www.paclii.org/countries/vu_other_materials.html. The Constitution provides for the continuation of British and French Joint Regulations and British and French laws and recognition of customary laws (Constitution Article 95).

⁴ Pacific Islands Legal Information Institute has a database that provides access to Acts of the Vanuatu Parliament. As of the date this summary is compiled, June 2021, the database included copies of Acts up to the end of December 2019, and a list of Acts passed in 2020. The Institute also provides access to Laws of the Republic of Vanuatu - Consolidated Edition 2006, which contains consolidated Acts of Parliament up to the end of 2005. See website at: <http://www.paclii.org/countries/vu.html>.

⁵ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 135, Penal Code Act (enacted 1981), as subsequently amended by Penal Code (Amendment) Act 2006, Penal Code (Amendment) Act 2007, Penal Code (Amendment) Act 2016, Penal Code (Amendment) Act 2017, and Statute Law (Miscellaneous Provisions) Act 2017.

⁶ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 45, Control of Marriage Act (enacted 1966).

⁷ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 313, Counter Terrorism and Transnational Organised Crime Act (enacted 2005), as subsequently amended by Counter Terrorism and Transnational Organised Crime (Amendment) Act 2008, Counter Terrorism and Transnational Organised Crime (Amendment) Act 2012, Counter Terrorism and Transnational Organised Crime (Amendment) Act 2014, and Counter Terrorism and Transnational Organised Crime (Amendment) Act 2017.

⁸ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 160, Employment Act (enacted 1983), as subsequently amended by Employment (Amendment) Act 2008, Employment (Amendment) Act 2010, Statute Law (Miscellaneous Provisions) Act 2014, Statute Law (Miscellaneous Provisions) Act 2016, and Employment (Amendment) Act 2019.

⁹ Immigration Act 2010 as amended by Immigration (Amendment) Act 2013, Immigration (Amendment) Act 2014, Immigration (Amendment) Act 2016, Statute Law (Miscellaneous Provisions) Act 2017, Immigration (Amendment) Act 2018 and Statute Law (Miscellaneous Provisions) Act 2019.

¹⁰ Vanuatu Education and Training Sector Strategic Plan 2020 – 2030 published by the Government of Vanuatu June 2020 (Ministry of Education and Training), available at: <https://www.globalpartnership.org/content/education-and-training-sector-strategic-plan-2020-2030-vanuatu>.

- Vanuatu is a member of the Melanesian Spearhead Group Skills Movement Scheme, along with Fiji, Papua New Guinea, and the Solomon Islands.¹¹ The Scheme facilitates the temporary movement of nationals between these countries for employment purposes.¹²
- Vanuatu’s Climate Change and Disaster Risk Reduction Policy 2016–2030. This Policy addresses the recovery needs of individuals who have been displaced because of natural disasters or the effects of climate change.¹³

Although Vanuatu has made significant improvements to its approach to combat human trafficking, a comprehensive national policy or strategy would require more resources, research, data, and awareness of human trafficking.¹⁴ Following a study on the scope of human trafficking and people smuggling in Vanuatu, the International Organisation for Migration (**IOM**) made a number of recommendations for improving Vanuatu’s response.¹⁵ These recommendations included, among others, developing a national action plan to prevent and combat human trafficking and people smuggling, conducting regular multi-agency training, implementing multidisciplinary coordination meetings to ensure a common approach and to share good practices among agencies, and appointing a senior police officer or Ministry of Justice official to act as a National Coordinator with the responsibility of collating statistics and producing reports.

Whilst acknowledging Vanuatu’s increased efforts to prevent trafficking, the U.S. Department of State’s 2021 Trafficking in Persons Report on Vanuatu noted a number of ways in which the Government could improve its response.¹⁶ For example, the Government could conduct systematic anti-trafficking awareness campaigns, establish a trafficking hotline, make efforts to reduce the demand for commercial sex, and develop an adequate system for researching and assessing the scope of its human trafficking problem and evaluating its anti-trafficking efforts.

2. OVERVIEW OF VANUATU’S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

2.1. Vanuatu’s Regional and International Law Obligations

2.1.1. *Fundamental human rights*

Vanuatu has signed a number of international conventions relevant to labour standards and migration.

It has ratified many conventions:

Convention Concerning Forced or Compulsory Labour, 1930

Abolition of Forced Labour Convention, 1957

¹¹ <https://msgsec.info/msg-skills-movement-scheme/>.

¹² New Zealand’s Recognised Seasonal Employer Scheme and Australia’s Pacific Labour Scheme and Seasonal Worker Programme facilitate seasonal employment opportunities for workers in the Pacific Islands including Vanuatu. See websites at: <https://www.dese.gov.au/seasonal-worker-programme>; <https://www.dfat.gov.au/geo/pacific/engagement/pacific-labour-mobility>; <https://www.immigration.govt.nz/about-us/research-and-statistics/research-reports/recognised-seasonal-employer-rse-scheme>.

¹³ https://policy.asiapacificenergy.org/sites/default/files/vanuatu_cc_drr_policy_minus_att4v4.pdf.

¹⁴ https://www.iom.int/sites/default/files/our_work/DMM/MAD/traffi1.pdf.

¹⁵ https://www.iom.int/sites/default/files/our_work/DMM/MAD/traffi1.pdf.

¹⁶ <https://www.state.gov/reports/2021-trafficking-in-persons-report/vanuatu/>.

Right to Organise and Collective Bargaining Convention, 1949

Discrimination (Employment and Occupation) Convention, 1958

Convention on the Elimination of All forms of Discrimination against Women, 1979 (and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women)

United Nations Convention on the Law of the Sea (1982)

Convention on the Rights of the Child (**CRC**), 1989

Worst Forms of Child Labour Convention, 1999.

However, Vanuatu has not ratified several other conventions:

International Labour Organization (**ILO**) Migration for Employment Convention (Revised), 1949 (No. 97)

Convention relating to the Status of Refugees, 1951

Convention relating to the Status of Stateless Persons, 1954

Convention on the Reduction of Statelessness, 1961

United Nations 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (**ICRMW**), 1990.

The Government of Vanuatu cooperates with the Office of the United Nations High Commissioner for Refugees in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.¹⁷

Vanuatu has ratified the United Nations Convention against Transnational Organised Crime,¹⁸ but it has not signed two supplementary Protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children,¹⁹ and the Protocol against the Smuggling of Migrants by Land, Sea and Air.²⁰

Vanuatu is a member of the Melanesian Spearhead Group (**MSG**) Skills Movement Scheme, which is governed by a memorandum of understanding with Fiji, Papua New Guinea, and the Solomon Islands.²¹ The MSG Skills Movement Scheme aims to facilitate the temporary movement of nationals among these

¹⁷ Country Reports on Human Rights Practices for 2018, published by the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, “Vanuatu 2018 Human Rights Report,” available at: <https://www.state.gov/wp-content/uploads/2019/03/VANUATU-2018.pdf>.

¹⁸ United Nations Convention against Transnational Organized Crime adopted by the UN General Assembly: 15 November 2000, by resolution 55/25, available at: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>.

¹⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, adopted by General Assembly resolution 55/25 of 15 November 2000.

²⁰ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, supplementing the United Nations Convention against Transnational Organised Crime, adopted by General Assembly resolution 55/25 of 15 November 2000.

²¹ <https://msgsec.info/>.

countries for employment purposes. Vanuatu is also a member of the New Zealand Recognised Seasonal Employer Scheme and the Australian Government’s Seasonal Worker Programme.

Vanuatu does not have a separate Bill of Rights; however the Constitution recognises fundamental rights and freedoms of the individual in terms that are partially modelled on the United Nations Universal Declaration of Human Rights.

2.1.2. *Slavery and trafficking*

Vanuatu is a member of the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime,²² which “is a forum for policy dialogue, information sharing and practical cooperation to help the region address these challenges.” Australia and Indonesia are the co-chairs. The United Nations High Commissioner for Refugees, the International Organization for Migration, the United Nations Office of Drugs and Crime, and the International Labour Organization are also members. The 2016 Declaration adopted by the Sixth Bali Process Ministerial Conference, and the 2018 Declaration adopted by the Seventh Bali Process Ministerial Conference, set out principles and regional goals for managing irregular migration.

Vanuatu is a member of the Pacific Islands Forum, which fosters regional co-operation on a range of mainly economic issues (including climate change and sustainable development).²³ Vanuatu is not a member of the Asia Pacific Forum of National Human Rights Institutions.²⁴

2.1.3. *Effect under Vanuatu’s law*

Under the Constitution, treaties negotiated by the Government shall be presented to Parliament for ratification when they concern international organisations, peace, or trade; commit the expenditure of public funds; affect the status of people; require amendment of Vanuatu’s laws; or provide for the transfer, exchange, or annexing of territory.²⁵

The Constitution does not provide for automatic application of international law, or require Parliament or the judiciary to consider international law.

The Supreme Court of Vanuatu has held that a convention, once ratified by Parliament, is binding on the Republic, and the courts may enforce a provision of a convention where no specific legislation is required to implement that term.²⁶ It also held that the court’s discretion under the Matrimonial Causes Act (section 15) to “make such provision as appears just with respect to custody, maintenance and education of the children of the marriage” must be exercised having regard to Article 3(1) of the Convention on the Rights of the Child. Courts have followed this approach in subsequent custody decisions that refer to the Convention on the Rights of the Child.²⁷

²² <https://www.baliprocess.net/>.

²³ <https://www.forumsec.org/>.

²⁴ <https://www.asiapacificforum.net/>.

²⁵ Constitution Article 26.

²⁶ *Molu v. Molu No 2* [1998] VUSC 15: Convention on the Rights of the Child, ratified by Parliament by Ratification Act No 26 of 1992, Article 3(1): “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child shall be a primary consideration.*” (Article 3(1) as quoted in the judgement.)

²⁷ Examples: *Tally v. Tally* [2012] VUSC 122; *Kong v. Kong* [2000] VUCA 8.

2.2. Human Rights Protections Under Vanuatu’s Law

Although Vanuatu does not have a separate Bill of Rights, its Constitution recognises fundamental rights and freedoms of the individual partly modelled on the Universal Declaration of Human Rights. The Constitution states:

“The Republic of Vanuatu recognises, that, **subject to any restrictions imposed by law on non-citizens and holders of dual citizenship who are not indigenous or naturalized 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 or 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 –” (emphasis added)

(amongst other things) life; liberty; security of the person; protection of the law; freedom from inhuman treatment and forced labour; freedom of movement.²⁸

Anyone who considers that any of the rights guaranteed by the Constitution have been, are being, or are likely to be infringed may apply, independently of any other possible legal remedy, to the Supreme Court to enforce that right. The Supreme Court may make such orders, issue such writs, and give such directions, including the payment of compensation, as it considers appropriate to enforce the right.²⁹

The Constitution allows restrictions on non-citizens, who are not subject to the fundamental right and freedoms.

The Supreme Court has held that other provisions of the Constitution may be subject to the recognition of fundamental rights and freedoms in Article 5.³⁰ This case considered the interpretation of Article 74: Rules of custom shall form the basis of ownership and use of land in Vanuatu. Under Article 5: All persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of sex – protection of the law; protection for the privacy of the home and other property, and from unjust deprivation of property; equal treatment under the law or administrative action (except for provision for the special benefit, welfare, protection, or advancement of females). The court held that, despite Article 74, customary law could not discriminate against women with respect to land rights.

The Vanuatu courts likely would also follow the approach of interpreting legislation consistently with ratified conventions where possible.

2.3. Criminalization of Modern Slavery

The Penal Code and the CTTOC Act have criminal offences for slavery, slavery-like conditions, and human trafficking.

Other legislation also creates relevant criminal offences:

- Control of Marriage Act, forbidding forced marriage;
- Employment Act, including offences prohibiting forced or compulsory labour and child labour; and

²⁸ Constitution Article 5. The Constitution also provides that every person has fundamental duties to oneself and one’s descendants (Article 8). Except as provided by law, those duties are non-justiciable, but all public authorities have the duty to encourage compliance with them.

²⁹ Constitution Article 6.

³⁰ *Noel v. Toto* [1995] VUSC 3.

- Immigration Act, including offences that penalize bringing into Vanuatu a non-citizen who does not have a valid visa or does not have approved identification documentation.

2.4. Supply Chain Reporting

No legislation or government policies require companies to monitor or report human trafficking or forced labour in their supply chains.

2.5. Investigation, Prosecution, and Enforcement

2.5.1. *Investigation and prosecution of criminal offenses*

The National Intelligence Unit (**NIU**) within the Vanuatu Police Force is the leading agency on trafficking investigations.³¹ The NIU primarily focuses on migration practices and identifying people trafficked into Vanuatu for labour exploitation. There is limited focus on other human trafficking within Vanuatu,³² and government resources with respect to anti-trafficking monitoring, reporting, and training have been limited.

2.5.2. *Mutual assistance/international cooperation*

The Transnational Crime Unit (**TCU**), created by the Government in 2019, is an arm of the NIU. The TCU focuses on transnational issues affecting Vanuatu, including human trafficking and people smuggling.³³ It also assists border agencies to provide information and assists the Police Organisation when needed.

The Australian Federal Police support and partly fund the TCU as part of Australia’s development partnership with Vanuatu.

3. VANUATU’S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

3.1. Overview of Criminal Offenses

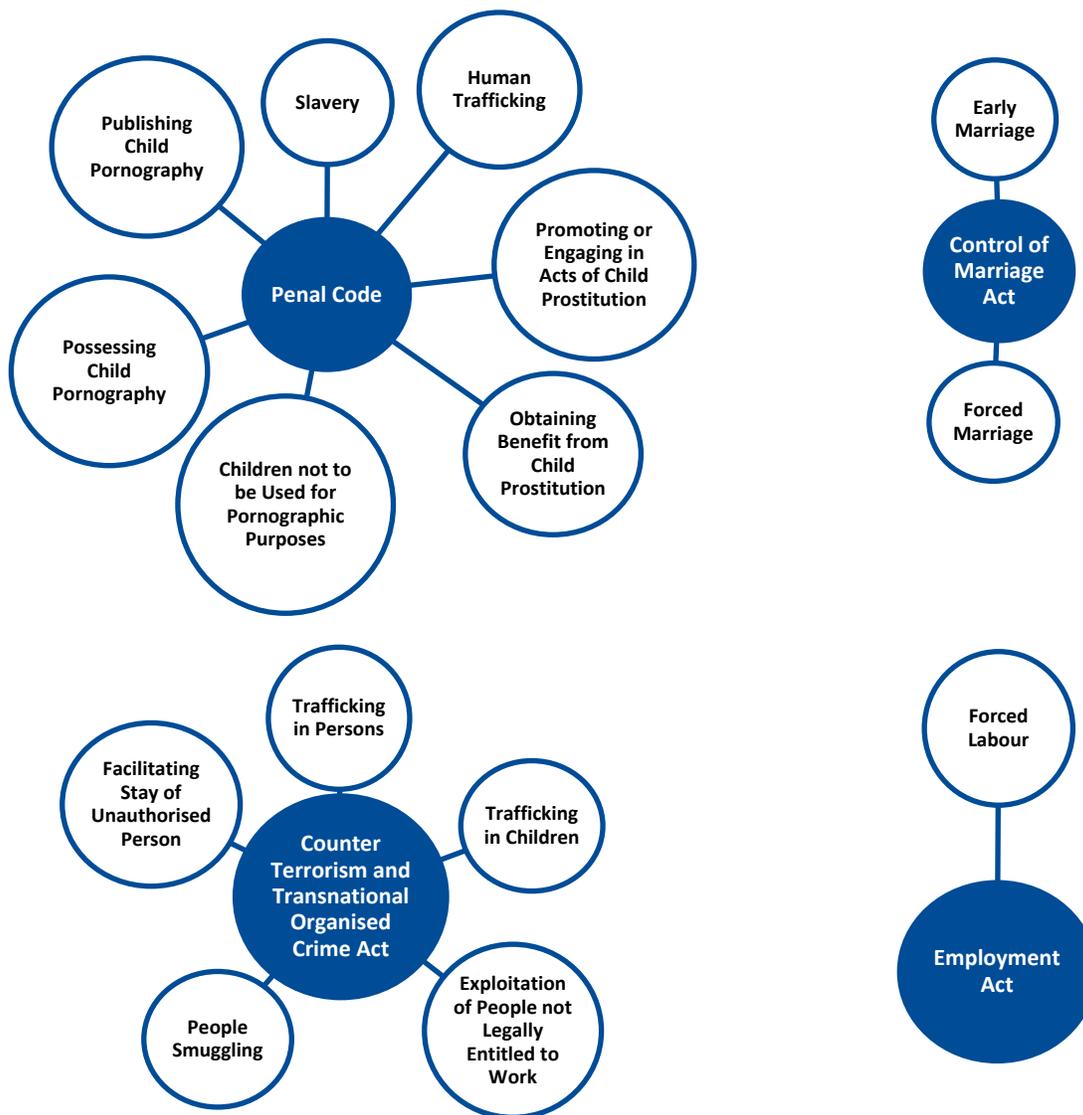
The Penal Code and the CTTOC Act provide criminal offences for slavery, certain slavery-like conditions, and human trafficking. The Control of Marriage Act sets out offences prohibiting forced or early marriage. The Employment Act specifies additional offences prohibiting forced labour. Refer to Section 5 regarding the Employment Act and the Immigration Act.

³¹ U.S. Dep’t of State, Trafficking in Persons Report 536-538 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

³² U.S. Dep’t of State, Trafficking in Persons Report: Vanuatu (2021), available at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/vanuatu/>.

³³ Vanuatu Police Force website, available at: <https://police.gov.vu/what-we-do/other-units/transnational-crime/33-transnational-crime>.

The diagram summarises the offences under the Penal Code and CTTOC Act:



The general rules for criminal responsibility under the Penal Code include:

- No persons shall be guilty of a criminal offence unless they intentionally do an act which is prohibited by the criminal law and for which a specific penalty is prescribed. The act may consist of an omission or a situation which has been created intentionally.³⁴
- Recklessness in doing an act prohibited by law is equivalent to intention.³⁵ However, persons will not be guilty of a criminal offence if they are merely negligent, unless the crime consists of an omission

³⁴ Penal Code section 6(1).

³⁵ Penal Code section 6(2).

(negligence is a failure to exercise such care, skill, or foresight as a reasonable person in that situation should exercise).³⁶

- No penalty may be imposed except upon a person who is criminally responsible. Subject to any special provision of law, criminal responsibility shall attach to any person who intentionally commits each of the acts or omissions that is an element of a criminal offence with the intention of causing the result that completes the offence.³⁷
- No persons shall be convicted of any criminal offence unless the prosecution proves their guilt according to the law beyond reasonable doubt by means of evidence properly admitted (with the determination of proof of guilt beyond reasonable doubt to exclude consideration of any merely fanciful or frivolous possibility).³⁸
- An attempted offence is an offence punishable in the same manner as the offence concerned. An attempt to commit a criminal offence is committed if any act is done or omitted with intent to commit that crime and such act or omission is a step towards the commission of that crime that is immediately connected with that crime, or would have been had the facts been as the offender supposed them to be.³⁹
- Any person who aids, counsels, or procures the commission of a criminal offence shall be guilty as an accomplice and may be charged and convicted as a principal offender.⁴⁰ A person guilty of inciting or soliciting an offence may also be charged and convicted as a principal offender.⁴¹

These principles apply to criminal offences under other legislation.⁴²

3.2. Slavery Offenses Under the Criminal Code

3.2.1. General

Under Penal Code section 102:

“No person shall –

- take or keep another in slavery; or
- engage in any traffic in persons.”

There are no applicable definitions of “slavery” or “traffic in persons.”

The penalty for contravening this section is up to 20 years of imprisonment. The court can, in place of imprisonment or as an alternative penalty, fine the offender.

³⁶ Penal Code section 6(4).

³⁷ Penal Code section 16.

³⁸ Penal Code section 8.

³⁹ Penal Code section 28.

⁴⁰ Penal Code section 30.

⁴¹ Penal Code section 35.

⁴² The CTOC Act provides (section 51A): “An offence committed under this Act may be dealt with in accordance with the provisions of the Penal Code Act.”

For offences under the Penal Code, fines imposed as an alternative penalty to imprisonment may be up to VUV 200 per day for every day of the prescribed maximum penalty of imprisonment to which the offender is liable.

3.2.2. Extraterritorial application

3.2.2.1. Extraterritorial application of Penal Code

Offences within the Republic

Penal Code section 1 provides that the Republic’s criminal law applies to any act done or omitted within its territory (including its territorial waters and airspace, and all civil vessels and aircraft registered in the Republic).⁴³

Offences partly or wholly abroad

Penal Code section 2(a) provides that the Republic’s criminal law applies to any offence of which an element has taken place within the Republic’s territory.⁴⁴

Offences abroad

With the Public Prosecutor’s written consent, Vanuatu may prosecute any citizen for any act or omission committed beyond the Republic which, had it been committed within the Republic, would be an offence (and where the acts or omissions are an offence under the law of the place where they were done).⁴⁵

Vanuatu cannot prosecute a person for an offence abroad where the country in which the person committed the act or omission has already prosecuted the person, whatever the result of such prosecution.⁴⁶

Where Vanuatu prosecutes a person for an offence abroad, the penalty must not be more severe than the corresponding penalty prescribed by the law of the place in which the act or omission was committed.⁴⁷

International offences

Penal Code section 5(1) provides that the Republic’s criminal law applies to, amongst other offences, trafficking in persons and slave trading committed within or beyond the Republic’s territory.⁴⁸

⁴³ “Provided that no person aboard a foreign civil vessel or aircraft may be tried for an offence committed on board such vessel or aircraft within the territory of the Republic if the Public Prosecutor is satisfied that the offence may be dealt with fairly and in a manner not contrary to public policy in the Republic under the foreign law or regulations governing such vessel or aircraft.”

⁴⁴ Provided that no aliens (a term which is not defined in the Penal Code) may be tried for an offence against the criminal law of the Republic solely by virtue of section 2 unless they have been arrested within the territory of the Republic or have been extradited to it.

⁴⁵ Penal Code section 4.

⁴⁶ Penal Code section 4(3).

⁴⁷ Penal Code section 4(2).

⁴⁸ However Penal Code section 5(2) provides that no alien may be tried in the Republic for such an offence committed abroad unless they have been arrested in the Republic, another government has not applied for their extradition, and the Public Prosecutor has consented in writing to their prosecution.

Complicity and attempts

The criminal law of the Republic applies to:⁴⁹

- any act or omission within the Republic’s territory constituting complicity or attempt to commit an offence against the Republic’s criminal law beyond its territory and that also is an offence punishable by the law of the place in which the act or omission is or is intended to be committed; and
- any such act or omission beyond its territory in relation to an offence or intended offence within its territory.

3.2.2.2. Extraterritorial application of CTTOC Act

Vanuatu may bring proceedings for an offence under the CTTOC Act if the act or omission is committed in Vanuatu, on board a craft registered in Vanuatu, or by a person who is in Vanuatu, whether or not the act or omission constituting the offence is committed in or outside Vanuatu, if the act or omission:⁵⁰

- (i) is committed by a citizen of Vanuatu or a citizen of any country who is ordinarily resident in Vanuatu; or
- (ii) is committed to compel the Government of Vanuatu to do or abstain from doing any act; or
- (iii) is committed against a citizen of Vanuatu; or
- (iv) is committed by a person who is, after the commission of the offence, present in Vanuatu; or
- (v) is intended to be committed in Vanuatu; or
- (vi) originates in or transits Vanuatu.

3.2.2.3. Control of Marriage Act and Employment Act

The Control of Marriage Act and the Employment Act do not address extraterritorial application.

3.3. Slavery-Like Offenses in Vanuatu’s Legal Order

3.3.1. Servitude

The CTTOC Act defines “exploitation” to include “all forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or **practices similar to slavery, servitude**, and the removal of organs.” (Emphasis added.)⁵¹

This definition of exploitation applies to a number of human trafficking offences under the CTTOC Act. Refer to Section 3.4. However, there are no specific offences for engaging in practices similar to slavery or engaging in servitude.

⁴⁹ Penal Code section 3.

⁵⁰ CTTOC Act section 48.

⁵¹ CTTOC Act section 2

3.3.2. *Forced labour*

Section 7(1) of the Employment Act provides that no person shall exact, procure, or employ forced or compulsory labour. “Forced or compulsory labour” is defined as “all work or service which is exacted from any person under the threat of any penalty and for which that person has not offered himself voluntarily”⁵² with the exception of a number of listed examples, including military service for work of purely military character,⁵³ normal civic obligations of citizens,⁵⁴ any work or service exacted from any person as a consequence of a conviction by a court,⁵⁵ and any work or service exacted in cases of emergency.⁵⁶

Section 78(2) of the Employment Act provides that any person who contravenes section 7 commits an offence, which carries a penalty of VUV 100,000, imprisonment for a term not exceeding three years, or both. Every act or default under the Employment Act constituting an offence is a new offence in every week during which it continues.⁵⁷

Article 5 of the Constitution recognises the fundamental freedom from forced labour. Article 6 provides that all persons who consider that a right guaranteed to them by the Constitution has been, is being, or is likely to be infringed may apply, independently of any other possible legal remedy, to the Supreme Court to enforce that right. For victims of human trafficking who are not citizens, the extent to which they may be able to enforce fundamental rights under the Constitution depends on the terms of other statutes.

In 2019, the U.S. Customs and Border Protection detained shipments from Vanuatu in U.S. ports after receiving reports of forced labour on fishing vessels owned by companies based in Vanuatu.⁵⁸ The U.S. Department of State’s 2020 Trafficking in Persons Report for Vanuatu⁵⁹ concluded that the Government effectively enforced the law prohibiting forced labour, but noted that non-governmental organizations (NGOs) and trade unions reported physical violence, debt bondage, withholding of wages, and abusive conditions on foreign-owned, Vanuatu-flagged fishing vessels during the year.

3.3.3. *Deceptive recruiting for labor or services*

There is no offence of deceptive recruiting for labor or services. However, the issue is a live one. The U.S. Department of State’s 2020 Trafficking in Persons Report for Vanuatu⁶⁰ noted that Vanuatu’s labour department licenses and monitors agencies that recruit workers from Vanuatu for overseas work. The Government prohibits recruitment fees for seasonal employment work outside of Vanuatu and issues notices of “non-compliance” to agents who charge migrant workers recruitment fees.⁶¹

⁵² Employment Act section 7(2).

⁵³ Employment Act section 7(2)(a).

⁵⁴ Employment Act section 7(2)(b).

⁵⁵ Employment Act section 7(2)(c).

⁵⁶ Employment Act section 7(2)(d).

⁵⁷ Employment Act section 79.

⁵⁸ <https://www.seafoodsource.com/news/supply-trade/us-customs-claims-vanuatu-tuna-vessel-used-forced-labor>.

⁵⁹ U.S. Dep’t of State, Trafficking in Persons Report 536-538 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

⁶⁰ “Vanuatu 2018 Human Rights Report,” published by the U. S. Department of State, Bureau of Democracy, Human Rights and Labor, available at: <https://www.state.gov/wp-content/uploads/2019/03/VANUATU-2018.pdf>.

⁶¹ U.S. Dep’t of State, Trafficking in Persons Report: Vanuatu (2020), available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/sample-2020-tip-report-eap/#:~:text=Human%20traffickers%20exploit%20domestic%20and,and%20the%20Philippines%20in%20Vanuatu>.

3.3.4. Early and forced marriage

3.3.4.1. Early Marriage

Section 2 of the Control of Marriage Act stipulates that the legal age for marriage is 21 years, though males between 18 and 21 years old and females between 16 and 21 years old may marry with parental or guardian consent pursuant to section 3 (the magistrate’s court in the relevant territorial jurisdiction may also authorise the marriage in the absence of such consent).

Contravention of sections 2 or 3 is an offence penalized by a fine not exceeding VUV 20,000.⁶²

Section 4 requires the principal celebrant of any marriage to be satisfied that the parties to the marriage have attained the prescribed minimum age, or that parties who are under the age of 21 have received parental or guardian consent.

Contravention of section 4 is an offence carrying a penalty of a fine not exceeding VUV 50,000.⁶³

3.3.4.2. Forced Marriage

The Control of Marriage Act makes “Forced Marriage” a criminal offence:

“No person shall compel another person of any age to marry against [their] will.”⁶⁴

Contravention carries a penalty of a fine not exceeding VUV 100,000, imprisonment not exceeding two years, or both.⁶⁵

Section 4 requires the principal celebrant of any marriage to be satisfied that the parties to the marriage have freely expressed their consent before at least two witnesses or before the District Commissioner of the District in which they reside.

A contravention of section 4 is an offence carrying a maximum penalty of a fine not exceeding VUV 50,000.⁶⁶

Section 6 then declares a marriage without the required consent to be invalid.

However, the U.S. Department of State’s 2021 Trafficking in Persons Report noted that “bride-price payments” (where a man’s family gives a woman’s male relatives money or other valuables for the man and woman to marry) are an ongoing practice, with women then forced to “pay back” the money through commercial sex or forced domestic service. The incidence of bride-price payments is linked to broader economic hardship, particularly resulting from the country’s frequent natural disasters—for example, there were increased reports of child marriage after the cyclone in April 2020.⁶⁷

⁶² Penal Code section 7(1).

⁶³ Penal Code section 7(2).

⁶⁴ Control of Marriage Act section 5. The English translation of this section uses “his”; however, the meaning of the provision in its original French is not gender-specific.

⁶⁵ Control of Marriage Act section 7(3).

⁶⁶ Penal Code section 7(2).

⁶⁷ U.S. Dep’t of State, Trafficking in Persons Report: Vanuatu (2021), available at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/vanuatu/>.

3.3.5. Debt bondage

There is no separate offence of debt bondage. The definition of “exploitation,” for purposes of the human trafficking offences, includes “forced labour or services, practices similar to slavery, servitude” which would include debt bondage. Refer to Section 3.4.1.2.

3.3.6. Any other relevant offenses

Section 36(1) of the CCTOC Act prohibits certain conduct towards an employee who is not legally entitled to work:

“An employer who allows an unlawful employee to undertake employment in the employer’s service must not take any action with the intention of preventing or hindering the employee from:

- (a) leaving Vanuatu;
- (b) ascertaining or seeking their entitlement under the law of Vanuatu; or
- (c) disclosing to any person the circumstances of their employment by the employer.”

Section 36(2) provides examples of the type of actions prohibited in section 36(1), including:

- (a) taking or retaining possession or control of a person’s passport, any other travel or identity document, or travel tickets;
- (b) preventing or hindering a person from having access to a telephone, or using a telephone, or using a telephone privately, or leaving premises, or leaving premises unaccompanied; or
- (c) preventing or hindering an authorised officer from entering or having access to any place or premises to which the person is entitled to have access under any law.

Contravention carries a penalty of imprisonment of up to 10 years, a fine of up to VUV 50 million, or both.

3.3.7. Extraterritorial application of the offenses

Refer to Section 3.2.2.

3.4. Human Trafficking/Smuggling-Related Criminal Offenses

3.4.1. International and domestic trafficking/smuggling of people

3.4.1.1. Penal Code trafficking offenses

Under Penal Code section 102, no person shall:

- (a) take or keep another in slavery; or
- (b) engage in any traffic in persons.

The Penal Code has offences penalizing prostitution and child pornography. The offence prohibiting prostitution states:⁶⁸

⁶⁸ Penal Code section 101.

“No person shall procure, aid or facilitate the prostitution of another person or share in the proceeds of such prostitution whether habitual or otherwise, or be subsidised by any person engaging in prostitution.”

Contravention carries a penalty of up to five years of imprisonment.

Offences penalizing child prostitution and child pornography are discussed in Section 3.4.2.

3.4.1.2. *CTTOC Act trafficking offenses*

Under the CTTOC Act, relevant definitions are:⁶⁹

“‘trafficking in persons’ means the recruitment, transportation, transfer, harbouring, or receipt of a person for the purpose of exploitation.”

“‘exploitation’ includes all forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, servitude, and the removal of organs.”

The offence under the CCTOC Act for “Trafficking in persons” provides:⁷⁰

“A person must not engage in trafficking in a person or be involved in the arranging of trafficking in a person, knowing that the person’s entry into Vanuatu or any other state is or was arranged by specified means.”

“Specified means” means threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or giving or receiving payments or benefits to achieve the consent of a person having control over another person.⁷¹

Contravention carries a penalty of imprisonment of not more than 10 years, a fine of not more than VUV 50 million, or both.⁷²

The CTTOC Act also offers some protection for trafficked persons.⁷³ A trafficked person is not liable to criminal prosecution for:

- (a) the act of trafficking in persons or being a party to an offence of trafficking in persons; or
- (b) the person’s illegal entry into Vanuatu in connection with the act of trafficking in persons if Vanuatu is the receiving country; or
- (c) the person’s period of unlawful residence in Vanuatu after being trafficked if Vanuatu is the receiving country; or
- (d) the person’s procurement or possession of any fraudulent travel or identity documents that the person obtained, or with which the person was supplied, for the purpose of entering the receiving country in connection with the act of trafficking in persons.

⁶⁹ CCTOC Act section 2

⁷⁰ CTTOC Act section 34(1).

⁷¹ CTTOC Act section 2.

⁷² CTTOC Act section 34(2).

⁷³ CTTOC Act section 38(1).

However, this does not prevent the removal of a trafficked person in accordance with the Immigration Act or any other Act.⁷⁴

3.4.1.3. *Smuggling offenses*

Section 39(1) of the CTTOC Act provides that a person must not engage, to obtain a material benefit, in people smuggling, either knowing or being reckless as to the fact that the smuggled person's entry into the country is illegal. An offence is committed regardless of whether the smuggled person enters or arrives in the receiving country.⁷⁵

Contravention carries a penalty of imprisonment of up to 10 years, a fine of up to VUV 50 million, or both.⁷⁶

In addition to the offence of smuggling, the CTTOC Act also makes it an offence to facilitate the stay of an unauthorised person: "A person must not knowingly facilitate the continued presence of an unauthorised person in a receiving country to obtain a material benefit."⁷⁷

"Unauthorised person" means "a person who is not a citizen of the country or is not in possession of all the documents required by the law of the country for the person's lawful entry into the country."⁷⁸

Contravention carries a penalty of imprisonment of up to five years, a fine of up to VUV 25 million, or both.⁷⁹

The CTTOC Act also offers some protection for smuggled persons. An unauthorised person is not liable for prosecution for an offence under Part 5 of the CTTOC Act (People Trafficking and People Smuggling) by reason only of the fact that the person is the object of:⁸⁰

- (a) people smuggling;
- (b) an offence relating to fraudulent travel documents when committed for the purpose of enabling people smuggling; or
- (c) an offence relating to facilitating the stay of an unauthorised person.

However, this does not prevent proceedings against an unauthorised person for an act or omission that is an offence under any other law.⁸¹

3.4.2. *International and domestic trafficking in children*

The CTTOC Act prohibits "trafficking in children."⁸²

⁷⁴ CTTOC Act section 38(2).

⁷⁵ CTTOC Act section 39(3).

⁷⁶ CTTOC Act section 39(2).

⁷⁷ CTTOC Act section 40(1).

⁷⁸ CTTOC Act section 2.

⁷⁹ CTTOC Act section 40(2).

⁸⁰ CTTOC Act section 42(1).

⁸¹ CTTOC Act section 42(2).

⁸² CTTOC Act section 35(1).

“A person must not intentionally engage in trafficking in a person who is a child, or be involved in the arranging of trafficking in a person who is a child, regardless of whether the child’s entry into Vanuatu or any other state is or was arranged by specified means.”⁸³

Contravention carries a penalty of imprisonment of up to 15 years, a fine of up to VUV 75 million, or both.⁸⁴

It is not a defence that the child “consented to the intended exploitation” or that the “intended exploitation did not occur.”

“Exploitation” includes “all forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.”⁸⁵

3.4.3. *Victim harboring*

The CTTOC Act defines “trafficking in persons” to mean “the recruitment, transportation, transfer, **harboring or receipt** of a person for the purpose of exploitation.”⁸⁶ (Emphasis added.)

Also, a person must not knowingly facilitate the continued presence of an unauthorised person in Vanuatu to obtain a material benefit.⁸⁷

Therefore, harbouring a victim of trafficking is part of the offence of trafficking in persons, and may also be an offence of facilitating the continued presence of an unauthorised person. Refer to Section 3.4.1.

3.4.4. *Extraterritorial application of human trafficking and smuggling offenses*

Refer to Section 3.2.2.

3.5. Online Exploitation of Children Offenses

The Penal Code includes offences prohibiting the exploitation of children:⁸⁸

A person must not use a child for pornographic purposes, cause or procure a child to be so used, or where caring for a child, consent to the child being so used or allow the child to be so used.

A child is used by a person for pornographic purposes if they are engaged in, or are in the presence of another person engaged in, activity of a sexual nature for the purpose of the production of pornography.⁸⁹

Contravention carries a penalty of imprisonment for up to five years or, if the child is under the age of 14 years, imprisonment for up to seven years.

⁸³ Refer to Section 3.4.1. for the definition of “specified means.”

⁸⁴ CTTOC Act section 35(2).

⁸⁵ CTTOC Act section 2(1), definition of “exploitation.”

⁸⁶ CTTOC Act section 2(1), definition of “trafficking in persons” (emphasis added).

⁸⁷ CTTOC Act section 40(1).

⁸⁸ Penal Code section 101D(1).

⁸⁹ Penal Code section 101D(2).

The Penal Code also makes it a crime to possess child pornography and publish an indecent article that is child pornography. These offences carry penalties of up to two years of imprisonment⁹⁰ and five years of imprisonment, respectively, or for a corporation convicted of publication, a fine of VUV 20,000,000. Relevant definitions are:

“‘child pornography’ means a film, publication, or computer game that would on the basis that it describes or depicts, in a way that is likely to cause offence to a reasonable adult, a person (whether or not engaged in sexual activity) who is a child under 16 or who looks like a child under 16.”⁹¹

“‘publish’ includes:

- (a) distribute, disseminate, circulate, deliver, exhibit (including on an internet website), lend for gain, exchange, barter, sell, offer for sale, let on hire, or offer to let on hire, or
- (b) have in possession or custody, or under control, for the purpose of doing an act referred to in paragraph (a), or
- (c) print, photograph, or make in any other manner (whether of the same or of a different kind or nature) for the purpose of doing such an act.”⁹²

The offences of possession or publication include online pornography.

Vanuatu has ratified the Convention on the Rights of the Child, 1999, and has also ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

3.6. Child Sex Tourism Offenses

The Penal Code has criminal offences for prostitution and child sex tourism.

Section 101 of the Penal Code provides that no person shall procure, aid, or facilitate the prostitution of another person or share in the proceeds of such prostitution, whether habitual or otherwise, or be subsidised by any person engaging in prostitution. Contravention of this section carries a penalty of imprisonment for five years.

The Penal Code makes it a crime to promote or engage in acts of child prostitution. Section 101B(1) provides that a person must not, “by any means, cause or induce a child to participate in an act of child prostitution” or “participate as a client with a child in an act of child prostitution.”⁹³ The child’s consent is not a defence.⁹⁴ This offence carries a penalty of imprisonment for up to 10 years or, if the child is under the age of 14 years, imprisonment for up to 14 years.⁹⁵

⁹⁰ Penal Code sections 147A(2) and 147B(2).

⁹¹ Penal Code section 147A(1).

⁹² Penal Code section 147B(1).

⁹³ Penal Code section 101A defines “an act of child prostitution” for the purposes of sections 1010B to 101D: “any sexual service, whether or not involving an indecent act - (a) that is provided by a child for the payment of money or the provision of any other material thing (whether or not it is in fact paid or provided to the child or to any other person); and (b) that can reasonably be considered to be aimed at the sexual arousal or sexual gratification of a person or persons other than the child ...”

⁹⁴ Penal Code section 101B(2).

⁹⁵ Penal Code section 101B(1).

Obtaining a benefit from child prostitution is also a criminal offence. Section 101C provides that a person must not receive money or any other material benefit knowing that it is derived directly or indirectly from an act of child prostitution. Contravention carries a penalty of imprisonment for up to 10 years.

Another offence prohibits “abduction of a person under 18 years of age.”⁹⁶ A person must not take or cause to be taken unmarried persons under the age of 18 years out of the possession and against the will of their father, mother, guardian, or any other person having the lawful care or charge of them with the intention: of having sexual intercourse with the person; or to cause the person to have sexual intercourse with any other person. Contravention carries a penalty of imprisonment for up to seven years.

4. VANUATU’S SUPPLY CHAIN REPORTING LEGISLATION

No legislation or published government policy requires companies to monitor or report human trafficking in their supply chains.

5. FORCED LABOR: OVERVIEW OF VANUATU’S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

Employment law provides limited mechanisms through which victims of forced labour and trafficking can seek civil remedies. The Constitution and employment legislation confer certain rights, and employers are required to have workers’ compensation insurance covering most employees. However, contraventions are generally punishable by fines. Victims of trafficking who do not have a valid work visa can be subject to deportation.

5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

Persons who are not citizens of Vanuatu must obtain an appropriate visa to have the right to work in Vanuatu. Victims of forced labour or human trafficking from other countries are unlikely to have a visa.

Contraventions of the Employment Act, and other employment legislation, also apply to those employees who not are legally entitled to work.

Contraventions of the Employment Act are offences punishable by a fine not exceeding VUV 100,000 (there is no provision for imprisonment).

The Commissioner of Labour is responsible for enforcing the Employment Act.

⁹⁶ Penal Code section 92A.

5.3. Statutory rights

5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

The Employment Act specifies that “all monetary remuneration of an employee shall be paid in legal tender.”⁹⁷

The Minimum Wage and Minimum Wages Board Act (**Minimum Wage Act**)⁹⁸ establishes the legal basis for Vanuatu’s minimum wage. The Tripartite Labour Advisory Council established under section 1A of the Employment Act sets the minimum wage. As at 2019, Vanuatu’s minimum wage was VUV 220 per hour (about USD 2.03).⁹⁹

5.3.2. *Claims available in relation to misrepresentations and “sham” arrangements*

There is no offence of deceptive recruiting for labor or services. The Government prohibits recruitment fees for seasonal employment work outside of Vanuatu and issues notices of “non-compliance” to agents who charge migrant workers recruitment fees (see Section 3.3.3.), however this does not give rights of action or compensation to those workers.

There are some offences relating to fraud or fraudulent statements,¹⁰⁰ however their possible application to misrepresentations regarding conditions of work is unclear. Refer to Section 7 regarding compensation claims arising from offences.

5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

Under the Employment Act: “no employer shall make any deduction or make any agreement with an employee for any deduction from the employee’s remuneration for, or in respect of, any fine or of bad or negligent work or damage to the materials or other property of the employer: Provided that, subject to a prior written approval of a labour officer, a deduction may be made in respect of any loss or damage to materials or other property of the employer caused by the employee’s wilful misconduct or negligence of the employee.”¹⁰¹

Employers may make deductions only for sums advanced by the employer, the cost of materials or tools supplied to the employee for use outside of work, the value of any rations or accommodation provided by the employer, the cost of any articles provided on credit, and the cost of any food prepared, as well as any trade union membership fees or dues if requested by the employee.¹⁰²

⁹⁷ Employment Act section 16(1).

⁹⁸ Laws of The Republic of Vanuatu - Consolidated Edition 2006, Chapter 182, Minimum Wage and Minimum Wages Board Act (enacted 1984), as subsequently amended by Minimum Wage and Minimum Wages Board (Amendment) Act 2010.

⁹⁹ See <https://dol.gov.vu/index.php/2016-03-15-14-31-48>.

¹⁰⁰ For example: The offence of “kidnapping” (Penal Code section 105) is described in the following terms: “No person shall – (a) convey any person beyond the limits of the Republic without the consent of that person, or of some person legally authorised to consent on behalf of that person; or (b) by force compel, **or by any fraudulent means induce, any person to go from any place to another place.**” (Emphasis added.) Arguably, inducing a person to go to Vanuatu, or to another place within Vanuatu, by fraudulent representations about their conditions of work, could meet the definition.

¹⁰¹ Employment Act section 21(1).

¹⁰² Employment Act section 21(2)

5.3.4. Remedies

The criminal court has the power to order employers to pay employees any remuneration or other amounts owed to their employees.¹⁰³

5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

Under the Health and Safety at Work Act (**Health and Safety Act**),¹⁰⁴ every employer has the duty, so far as is reasonably practicable, to ensure the health, safety, and welfare at work of all employees.¹⁰⁵ The Minister enforces the Health and Safety Act.¹⁰⁶

An employer's failure to discharge a duty under the Health and Safety Act is an offence, which carries a penalty of a fine of up to VUV 100,000.¹⁰⁷ The Act also discusses civil liability: "Nothing in this Act shall give rise to a right of action in civil proceedings. Unless otherwise provided for in the regulations, breach of a duty imposed by health and safety regulations shall, so far as it causes damage be actionable."¹⁰⁸ However, no health and safety regulations are in force.

Additionally, the Employment Act requires every employer to take appropriate steps as soon as possible to remedy working conditions that may be dangerous for employees' health or welfare.¹⁰⁹ The Commissioner may issue a written notice to any employer recording any offences or dangerous conditions discovered and fixing the period within which they shall be eliminated.¹¹⁰

The U.S. Department of State's 2020 Human Rights Report for Vanuatu found that the Government did not effectively enforce occupational health and safety law, particularly in the informal sector. It also reported that Vanuatu could use higher penalties and more inspectors to deter violations. Logging, agriculture, construction, and manufacturing were identified as industries with inadequate safety.¹¹¹

The Workmen's Compensation Act¹¹² obligates employers to compensate employees injured from an accident arising out of and in the course of employment, or those persons entitled to the estate of

¹⁰³ Employment Act section 64(1).

¹⁰⁴ Laws of The Republic of Vanuatu - Consolidated Edition 2006, Chapter 195, Health and Safety at Work Act (enacted 1986, commenced 1987).

¹⁰⁵ Health and Safety Act section 2(1). The specific **Minister** is not defined in the Health and Safety Act. The relevant responsible Minister would vary from time to time depending on allocations of ministries determined by the Prime Minister from time to time. The website for the Health and Safety Unit of the Department of Labour and Employment Services, Government of the Republic of Vanuatu, does not identify the Minister. The Vanuatu Government Directory indicates that the Ministry of Internal Affairs is currently for the Labour Department. See website at: <https://www.gov.vu/index.php/directory/government-directory>.

¹⁰⁶ Health and Safety Act section 11.

¹⁰⁷ Health and Safety Act section 11.

¹⁰⁸ Health and Safety Act section 20.

¹⁰⁹ Employment Act section 45(1).

¹¹⁰ Employment Act section 45(2).

¹¹¹ "Vanuatu 2018 Human Rights Report," published by the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at: <https://www.state.gov/wp-content/uploads/2019/03/VANUATU-2018.pdf>.

¹¹² Laws of The Republic of Vanuatu - Consolidated Edition 2006, Chapter 202 Workmen's Compensation Act (enacted 2004), as subsequently amended by Statute Law (Miscellaneous Provisions) Act 2010 and Workmen's Compensation (Amendment) Act 2013.

employees who die as a result of any such accident.¹¹³ The amount of compensation is calculated in accordance with a scale set out in the schedule to the Workmen’s Compensation Act; for total disability or death, the amount is three times the employee’s annual wages, subject to a maximum of VUV 8,640,000.¹¹⁴

Employers are required to maintain insurance against liability for payment under the Act. Failure to maintain the insurance is an offence penalized by a fine not exceeding VUV 100,000.¹¹⁵ Injured employees (or their families) should therefore generally be able to claim under workers’ compensation insurance.

However, there are some significant exclusions from the requirement to maintain insurance, such as:¹¹⁶

- employment exclusively in domestic premises;
- employment in a fishing vessel where the crew are remunerated wholly by shares in the vessel’s profits; and
- any person who employs only a spouse, parent, child, or grandchild.

5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

There are several barriers to accessing justice and other practical issues associated with enforcing legislation in Vanuatu. Ubiquitous barriers to justice include the cost of legal services, geographical location, and language barriers.¹¹⁷

Many of these barriers arise from Vanuatu’s unique geographical and social context. Vanuatu is one of the most culturally diverse nations in the world, with more than 100 distinct linguistic and cultural groups spread across its more than 80 islands. A total of 70% of its small population of approximately 285,000 people spend most of their lives in rural villages.

The Republic faces challenges in the administration of justice, which would benefit from more resources, training, and decentralisation. However, its key advantages include greater neutrality than community justice and better support to victims. Notions of community justice are also complex because of the highly interrelated nature of communities, issues concerning money and power, and lack of consistency, oversight, and training.¹¹⁸

It is difficult to identify victims of human trafficking in Vanuatu. The Department of Vanuatu Immigration and Passport Services recognises that strengthening its border controls is a key national priority, including to prevent human trafficking.¹¹⁹

¹¹³ Workmen’s Compensation Act section 1.

¹¹⁴ Workmen’s Compensation Act section 2, Schedule sections 1–3.

¹¹⁵ Workmen’s Compensation Act section 3.

¹¹⁶ Workmen’s Compensation Act section 3(3).

¹¹⁷ Australian Government Department of Foreign Affairs and Trade, *Conflict Management and Access to Justice in Rural Vanuatu*, available at: <https://www.dfat.gov.au/sites/default/files/conflict-management-access-justice-rural-vanuatu.pdf>.

¹¹⁸ Australian Government Department of Foreign Affairs and Trade, *Conflict Management and Access to Justice in Rural Vanuatu*, available at: <https://www.dfat.gov.au/sites/default/files/conflict-management-access-justice-rural-vanuatu.pdf>.

¹¹⁹ Vanuatu Immigration and Passport website, available at: <https://immigration.gov.vu/index.php/department-of-immigration-and-passport-service/vis-location>; <https://immigration.gov.vu/index.php/regulatory-unit/compliance-section>.

5.6. Interaction between Employment Law and Migration

5.6.1. *Employment rights affected where employment is unlawful under migration law*

The Immigration Act regulates and controls immigration into Vanuatu. It prescribes classes of visas, including visitor visas and residence visas.¹²⁰ Employment in Vanuatu is prohibited on a visitor visa, but the holder of a residence visa may, subject to the Labour (Work Permits) Act (**Work Permits Act**),¹²¹ commence or continue employment.¹²²

The Work Permits Act makes it an offence for any non-citizen worker to take up or continue employment in Vanuatu without first obtaining a work permit or not to comply with the conditions of that work permit.¹²³ Under the Work Permits Act, the onus is on an employer who wishes to employ a non-citizen worker to make an application¹²⁴ and it is an offence to employ a non-citizen worker without the required work permit.

A residence visa is automatically cancelled if the Commissioner of Labour revokes the person's work permit.¹²⁵

There is no exemption from the requirements of the Work Permits Act for victims of human trafficking.

Workers without valid work permits are not excluded from court-ordered payments of wages owed to them (Section 5.3.4.) or from workers' compensation claims (Section 5.4.). However, because they are subject to an order for removal if the authorities learn of their irregular immigration status (Section 5.6.2.), they are unlikely to claim unpaid wages or compensation for injury.

5.6.2. *Rights/remedies available under applicable migration law and regulations*

While victims of human trafficking are not exempt from applicable immigration requirements, the CTOC Act protects those victims against criminal prosecution for breach of immigration requirements. Section 38 exempts trafficked persons from criminal liability for illegal entry and unlawful residence.¹²⁶ However, the protection does not prevent a trafficked person's removal in accordance with the Immigration Act.¹²⁷

Trafficked persons who are "prohibited immigrants" (because they do not have valid work permits), are subject to removal.¹²⁸ Before making an order for removal, the Minister must give persons written notice.¹²⁹ They may submit a written response explaining why they should not be removed from Vanuatu.

¹²⁰ Immigration Act section 27.

¹²¹ Laws of The Republic of Vanuatu - Consolidated Edition 2006, Chapter 187 Labour (Work Permits) Act (enacted 1985, commenced 1986), as subsequently amended by Labour (Work Permits) (Amendment) Act 2013 and Labour (Work Permits) (Amendment) Act 2018.

¹²² Immigration Act section 45.

¹²³ Work Permits Act section 2(1).

¹²⁴ Work Permits Act section 2(2).

¹²⁵ Immigration Act section 49A.

¹²⁶ CTOC Act section 38(1).

¹²⁷ CTOC Act section 38(2).

¹²⁸ Immigration Act section 53(1)(c).

¹²⁹ "Minister" means the Minister responsible for immigration. (Immigration Act section 1, definition of "Minister.") The relevant Minister responsible for immigration would vary from time to time, depending on allocations of ministries determined

The Minister is bound to consider their response.¹³⁰ Generally, a removed non-citizen is liable to pay the Government the costs of removal, which the Government may recover in a court of competent jurisdiction.¹³¹

5.7. Employment Laws and Child Labor

The Employment Act imposes several restrictions on child labour:

- Employment of persons under the age of 12 is prohibited, except for light work suitable to the child's capacity in an agricultural undertaking owned and managed by the family.¹³²
- Persons under the age of 14 may be employed only in light agricultural or domestic work in which members of the employer's family are employed, or in light agricultural work done collectively by the local community.¹³³
- Persons under the age of 15 shall not be employed on any ship, and shall not work in an industrial undertaking except in employment approved by the Commissioner.¹³⁴
- Persons under the age of 18 shall not be employed during the night in any industrial undertaking except where a labour officer has given consent.¹³⁵

Every employer in an industrial undertaking and every master of a ship must keep a register of all employed persons under the age of 18 years. This register is open to inspection by a labour officer.¹³⁶

The U.S. Department of State's 2020 Human Rights Report for Vanuatu commented on child labour issues:¹³⁷

"The government did not release enough information related to its enforcement of child-labor law to determine whether the law was effectively enforced. The Department of Labor confirmed there were no reported cases of illegal child labor during the year, and department action to address child labor was limited to informal presentations on the topic. There were no reports of government stopping child-labor activities or imposing administrative barriers. Penalties were not commensurate with those for other analogous serious crimes.

According to the National Child Protection Policy, the country has no data to determine the nature and prevalence of child labor. The Department of Labor stated, however, that most child workers were involved in logging, which exposed children to hazardous activities including having no proper protective equipment to operate machines, no proper training, and no regular medical checkups. Children were also involved in handling or lifting heavy loads. There were reports of a lack of regular

by the Prime Minister from time to time. The current relevant Minister is the Minister of Internal Affairs. See website at: <https://immigration.gov.vu/index.php/contact>.

¹³⁰ Immigration Act section 53(2) and (2A).

¹³¹ Immigration Act section 56.

¹³² Employment Act section 38.

¹³³ Employment Act section 39.

¹³⁴ Employment Act section 40.

¹³⁵ Employment Act section 41.

¹³⁶ Employment Act section 43.

¹³⁷ "Vanuatu 2018 Human Rights Report," published by the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at: <https://www.state.gov/wp-content/uploads/2019/03/VANUATU-2018.pdf>.

inspection from forestry and other appropriate government agencies to provide appropriate guidance to workers.”

The Report noted that the penalties are not commensurate with those for other analogous serious crimes. The standard penalty for offences under the Employment Act, a fine of up to VUV 100,000, would apply for contraventions of the age limits for employment.

6. GOVERNMENT PROCUREMENT RULES

6.1. Overview

Vanuatu has laws that regulate public procurement, establish a regulatory authority, and set out the standards and legal framework for public procurement by government agencies. The laws also establish the Central Tender Board (CTB).

No statute, rule, or procedure addresses slavery or human trafficking as a procurement issue.

6.2. Government Contracts and Tenders Act

The Government Contracts and Tenders Act¹³⁸ regulates public procurement of Government Contracts, including the issuing of tenders, quotations, and proposals and the management of tender processes. Contravention (unless minor, technical, or trivial in nature) makes a contract not binding on the government. The definition of “Government Contract” includes contracts for: (i) the supply of goods or services or the execution of public works; (ii) the disposal of a government asset, including disposals of land, interests in land, buildings, or infrastructure; and (iii) a concession or franchise granted by the government.

The CTB is responsible for managing procurement procedures and recommending acceptance of Government Contracts with a value of more than VUV 10 million.¹³⁹ The CTB is also responsible for developing the Standard Form tender documents for government agencies to use in planning procurements, recording and reporting on procurement processes, and placing advertisements in the appropriate media. The CTB is also responsible for developing procedures and forms for use in contract management.

The purpose of the Government Contracts and Tenders Act is to “establish rules and procedures that must be followed with Government Contracts and tenders.”¹⁴⁰ Those standards do not deal with the principles set out in the UN Guiding Principles on Business and Human Rights.

Vanuatu is yet to develop and adopt a national action plan on business and human rights.¹⁴¹

¹³⁸ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 245, Government Contracts and Tenders Act (enacted 1998), as subsequently amended by Government Contracts and Tenders (Amendment) Act 2013 and Government Contracts and Tenders (Amendment) Act 2019. 2020 Consolidated Edition is available at: <https://ctb.gov.vu/attachments/article/10/Government%20Contracts%20and%20Tenders.pdf>.

¹³⁹ See “Threshold for high value procurement,” available at: <https://ctb.gov.vu/procedures/high-value-procurement>.

¹⁴⁰ Government Contracts and Tenders Act section 1.

¹⁴¹ United Nations, “National action plans on business and human rights,” available at: <https://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx#:~:text=French%20%7C%20Russian%20%7C%20Spanish-,State%20national%20action%20plans%20on%20Business%20and%20Human%20Rights,on%20Business%20and%20Human%20Rights>.

7. RESTITUTION AND VICTIM COMPENSATION

7.1. Overview

Victims of human trafficking have several avenues to obtain compensation or restitution for their harm. However, the victim compensation regime in Vanuatu is complicated by the unique interplay between strictly legal remedies and punishments and the principles of customary reconciliation. In practice, there are significant hurdles.

7.2. Avenues to Compensation

7.2.1. *Sentence of compensation*

Victims can receive compensation as part of a criminal sentence for an offence that harmed them, including for CTOC Act offences.¹⁴² The Penal Code Part 1A creates a compensation regime to provide courts with sentencing options and other means for dealing with offenders other than by imprisonment.¹⁴³

When sentencing an offender, the sentencing court is required to consider, but is not obliged to impose, a sentence of compensation if the offence caused the victim to suffer death or injury, damage to property, emotional harm, or any other loss.¹⁴⁴

When determining the amount or type of compensation, the court is required to take into account the offender's income and any offer, agreement, response, measure, or action made or taken between the offender and the victim.

If the offender cannot pay the total value of the loss, damage, or harm, the court may sentence the offender to compensate the victim for a lower amount or to pay by instalments.¹⁴⁵ The offender's payments are used to pay a sentence of compensation before any fine.

Although a sentence of compensation does not prevent victims from suing offenders to recover additional damages,¹⁴⁶ the sentencing court, when considering the appropriateness or amount of a sentence of compensation, must take into account other legal rights available to victims to recover for the same loss or damage.¹⁴⁷ Consequently, where victims, or someone on their behalf, contemplate civil proceedings against offenders, the sentencing court is unlikely to impose a sentence of compensation.¹⁴⁸

¹⁴² CTOC Act section 51A.

¹⁴³ Penal Code section 36.

¹⁴⁴ Penal Code section 40(1).

¹⁴⁵ Penal Code section 43.

¹⁴⁶ Penal Code section 46(2).

¹⁴⁷ Penal Code section 40(3).

¹⁴⁸ See, e.g., *Public Prosecutor v. Bob* [2007] VUSC 13 (13 April 2007) (Lunabek CJ) (Supreme Court of Vanuatu).

7.2.2. Concurrent civil proceedings

Section 213 of the Criminal Procedure Code¹⁴⁹ allows a court to hear and give judgment on a civil claim within its jurisdiction against a person charged before it with a criminal offence, provided that the civil claim directly arises from the alleged acts giving rise to the offence charged against the defendant.

Accordingly, where criminal proceedings are commenced against an offender, including for human trafficking-related criminal offences, victims are entitled to bring civil claims against the offender for their harm resulting from the same conduct. The criminal court will then hear and give judgment on the civil claims, as well as undertake the criminal trial. The court may hear the claimants and any witnesses the claimants may call and permit the claimants to cross-examine witnesses for the prosecution and defence, and also may hear the defendant and any witnesses the defendant may call and permit cross-examination of the claimants' witnesses.¹⁵⁰ This procedure may ameliorate the financial and practical burden faced by victims in identifying and accessing relevant witnesses for a civil claim.

7.2.3. Relevance of custom

Customary practices and laws continue to play an important role in the resolution of disputes, including in punishing criminal behaviour. Where an offender has engaged in some misconduct, including committing a serious criminal offence, it is customary for a reconciliation ceremony to take place between the offender and the victim. The village or district chief often facilitates or even mandates the reconciliation ceremony.

During a customary reconciliation ceremony, an offender typically provides compensation or reparation to a victim, often with livestock, crops, or money.

Under the Penal Code, a criminal court may promote reconciliation and encourage and facilitate the settlement, according to custom or otherwise, for an offence. The settlement may include compensation or other terms approved by the court. This does not limit the court's power to impose a penalty it deems appropriate for the offence.¹⁵¹

When sentencing an offender, the court must take account of any compensation or reparation made or due by the offender under custom. If such compensation or reparation has not yet been determined, the court may postpone sentencing for that purpose.¹⁵²

Where an offender has agreed to pay, but has not yet paid, customary compensation, the sentencing court may impose a reduced punishment, but also convert the customary compensation into a legal sentence of compensation.¹⁵³

Victims of trafficking who are not citizens likely will not have this avenue of compensation based on custom.

7.3. Victims' Challenges in Accessing Compensation

Victims of human trafficking offences face several challenges when accessing compensation. As the victim compensation regime arises for consideration as part of the criminal sentencing process, victims' interest in receiving compensation may become subordinate to the sentencing court's ultimate obligation to impose

¹⁴⁹ Laws of the Republic of Vanuatu - Consolidated Edition 2006, Chapter 136, Criminal Procedure Code Act (enacted 1981), as subsequently amended by Criminal Procedure Code (Amendment) Act 2006 (**Criminal Procedure Code**).

¹⁵⁰ Criminal Procedure Code section 214(2) and (3).

¹⁵¹ Penal Code section 38.

¹⁵² Penal Code section 39.

¹⁵³ See, e.g., *Public Prosecutor v. Michel* [2020] VUSC 47 (15 April 2020) (Supreme Court of Vanuatu).

a just and proportionate sentence on offenders. Thus, for example, where offenders are sentenced to a significant term of imprisonment, a sentencing court is unlikely to sentence offenders to pay compensation.¹⁵⁴

Furthermore, as victims usually are not parties in the criminal proceedings, victims have to rely on prosecutors to request a sentence of compensation. Disregarding legal requirements,¹⁵⁵ sentencing courts also rarely give their reasons for declining to impose a sentence of compensation,¹⁵⁶ judging by the published decisions.¹⁵⁷ In addition, because a sentencing court must take account of the offender's capacity to pay compensation,¹⁵⁸ sentencing courts will not generally impose a sentence of compensation where the offender is impecunious or where the court lacks the information necessary to determine an offender's financial capacity.¹⁵⁹

Victims of human trafficking also face more basic challenges. The first prosecution for human trafficking offences, which began in November 2019 against four Bangladeshi nationals who had been arrested in March 2019, demonstrated ways in which the Government could improve protection for victims (in that case, 101 Bangladeshi nationals): The Government did not have designated funds to provide victims with necessities, such as housing, health services, and food, so it needed to divert funds from other budgets; the Government required some victims to remain in Vanuatu to serve as witnesses; victims who participated in the court proceedings were given longer-term shelter options, immigration support, legal support, and witness protection services and advocacy, but those who did not participate received only short-term housing and flights back to Bangladesh funded by an international organisation; the Government withdrew support during 2020;¹⁶⁰ and because the Government did not have a process to change victims' immigration status so they could work while awaiting conclusion of the court process, some victims faced increased debt.¹⁶¹

¹⁵⁴ *Public Prosecutor v. Hocten* [2020] VUSC 11 (20 February 2020) (Supreme Court of Vanuatu).

¹⁵⁵ Penal Code section 40(11).

¹⁵⁶ A review of the 1,179 published sentencing decisions of the Supreme Court of Vanuatu in which a sentence of compensation was available but not ordered revealed that courts gave their reasons for not ordering compensation in 53, or approximately 4.5% of, cases.

¹⁵⁷ See, e.g., *Public Prosecutor v. Naline* [2007] VUSC 78 (19 September 2007) (Supreme Court of Vanuatu); *Public Prosecutor v. Pala* [2007] VUSC 89 (12 October 2007) (Supreme Court of Vanuatu); *Public Prosecutor v. Tunat* [2009] VUSC 32 (15 May 2009) (Supreme Court of Vanuatu); *Public Prosecutor v. Mali* [2011] VUSC 67 (24 May 2011) (Supreme Court of Vanuatu); *Public Prosecutor v. Wai* [2019] VUSC 181 (13 December 2019) (Supreme Court of Vanuatu); *Public Prosecutor v. Kalwas* [2020] VUSC 290 (16 November 2020) (Supreme Court of Vanuatu).

¹⁵⁸ Penal Code sections 40(5) and 43.

¹⁵⁹ *Public Prosecutor v. George* [2020] VUSC 49 (16 April 2020) (Supreme Court of Vanuatu).

¹⁶⁰ "Vanuatu 2018 Human Rights Report," published by the United States Department of State, Bureau of Democracy, Human Rights and Labor, available at: <https://www.state.gov/wp-content/uploads/2019/03/VANUATU-2018.pdf>.

¹⁶¹ U.S. Dep't of State, Trafficking in Persons Report 536-538 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

8. VANUATU'S MULTIDISCIPLINARY/INTERAGENCY COOPERATION APPROACH

8.1. Domestic Policies and Institutional Cooperation

8.1.1. Joint Agency Group

Vanuatu has established a Joint Agency Group (**JAG**), which consists of the Department of Immigration, the Department of Customs and Inland Revenue, and various law enforcement agencies, to control Vanuatu's border and human trafficking activity.¹⁶² The Government developed a border management curriculum with the International Organization for Migration (**IOM**) and has mobilised trainers from the Department of Immigration and Department of Customs and Inland Revenue to train border officials, including guidance on visas, smuggling, trafficking, and interviewing migrants.¹⁶³ The IOM also assisted these departments in preparing the 2018 Border Control Operation Standard Operational Procedurals Manual. The manual has procedures for border control operations and checklists that border officials are beginning to use in their daily work.¹⁶⁴ One of these checklists addresses human trafficking and provides guidance to officials on victim identification. The IOM and Australia's border force have also collaborated to bolster the capacity of Vanuatu's frontline and secondary-line border officials.¹⁶⁵

Despite this inter-agency approach to human trafficking and recent improvements in border control, Vanuatu would benefit from better inter-institutional coordination mechanisms and a dedicated national body responsible for its policies and responses to human trafficking. The Government also does not publish much information on counter-trafficking activities and statistics. Vanuatu first reported experiencing and managing victims of human trafficking in 2018.¹⁶⁶

8.1.2. Disaster response and climate change risk

The Vanuatu Climate Change and Disaster Risk Reduction Policy 2016-2030 addresses the recovery needs of individuals who have been displaced because of natural disasters or the effects of climate change.¹⁶⁷ The policy was developed with support and contributions from the United Nations Development Programme, Secretariat of the Pacific Community, the German Agency for International Cooperation, the Australian Government, as well as a number of national government ministries and departments. Vanuatu has also ratified the United Nations Framework Convention on Climate Change and attends international climate-related forums.

In the aftermath of Tropical Cyclone Pam in March 2015, the Government of Vanuatu, with the support of humanitarian agencies, created a National Cluster System to implement disaster-preparedness activities

¹⁶² <https://migrationdataportal.org/sites/default/files/2018-11/MGI%20Vanuatu%20final.pdf>.

¹⁶³ <https://www.iom.int/news/ioms-vanuatu-migration-and-border-capability-improvement-programme-steps-competencies-border-control-officers>; https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf; <https://humanitariancompendium.iom.int/node/2338/appeals-print/>.

¹⁶⁴ https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf.

¹⁶⁵ <https://www.iom.int/news/ioms-vanuatu-migration-and-border-capability-improvement-programme-steps-competencies-border-control-officers>; https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf.

¹⁶⁶ https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf.

¹⁶⁷ https://policy.asiapacificenergy.org/sites/default/files/vanuatu_cc_drr_policy_minus_att4v4.pdf.

throughout the year, and to respond to disasters whenever they arise. There are eight technical clusters, each led by a government agency and a humanitarian partner, including: Education; Emergency Telecommunications; Food Security and Agriculture; Gender and Protection; Health and Nutrition; Logistics; Shelter; and Water, Sanitation and Hygiene. The Inter-Cluster is the coordinating mechanism for these eight clusters.¹⁶⁸

Despite these national responses to the ongoing threat of humanitarian crises, as of August 2018, there were no official processes for making exceptions to immigration procedures for immigrants whose originating country is experiencing a humanitarian crisis.¹⁶⁹ Guidelines and operating procedures for the temporary or permanent relocation of displaced persons are also yet to be developed. The provision of social services in communities devastated by disasters, and areas of relocation, is also in need of improvement.

8.2. Transnational Cooperation

8.2.1. Australia-Vanuatu partnership

Australia continues to be Vanuatu's primary humanitarian partner. Australia works closely with the Government of Vanuatu to implement Australia's new development strategy, focused on three pillars: health security, stability, and economic recovery. The second pillar, stability, includes building resilience to security challenges, including transnational crime, climate and disaster resilience, border management, and human security. These security challenges are also recognised in the Boe Declaration on Regional Security, which provides the mandate for the Pacific Islands Forum.¹⁷⁰

In 2020, the Australian Minister for Foreign Affairs announced that Australia is working in partnership with the Government of Vanuatu to establish a permanent Pacific Fusion Centre in Port Vila.¹⁷¹ The Pacific Fusion Centre seeks to build regional capacity to respond to shared security threats identified in the Boe Declaration on Regional Security, including human trafficking.

8.2.2. Transnational Crime Unit

In 2002, the Australian Federal Police established the Pacific Transnational Crime Network (**PTCN**).¹⁷² The PTCN is an intelligence network for Pacific law enforcement agencies to combat transnational, serious, and organised crime, such as drugs and arms trafficking, terrorism, money laundering, people smuggling, and human trafficking. It consists of 28 locally staffed Transnational Crime Units (**TCUs**) across the Pacific region, including Vanuatu. The Pacific Transnational Crime Coordination Centre (**PTCCC**) in Samoa performs a central coordinating role and contributes to the identification of current and emerging risks in the region. TCUs, which are responsible for exchanging information between each other and the PTCCC, are potential sources of information on transnational human trafficking and an important link to regional capacity-building.¹⁷³

The TCU in Vanuatu operates as an arm of its National Intelligence Unit. The TCU focuses on transnational issues affecting Vanuatu, such as human trafficking, and assists border forces. The TCU's 2019 national

¹⁶⁸ <https://ndmo.gov.vu/resources/clusters>.

¹⁶⁹ <https://migrationdataportal.org/sites/default/files/2018-11/MGI%20Vanuatu%20final.pdf>.

¹⁷⁰ <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>.

¹⁷¹ <https://www.foreignminister.gov.au/minister/marise-payne/media-release/pacific-fusion-centre-be-established-vanuatu>.

¹⁷² <https://www.afp.gov.au/what-we-do/our-work-overseas/afp-across-world#pacific>.

¹⁷³ https://www.iom.int/sites/default/files/our_work/DMM/MAD/traffi1.pdf.

security strategy recognised human trafficking as a threat to national and human security. Accordingly, the strategy had action items related to human trafficking, including developing a framework to aid persons displaced by natural disasters, creating support systems for crime victims, and improving the monitoring of territorial waters.¹⁷⁴ However, the U.S. Department of State’s 2021 Trafficking in Persons Report on Vanuatu reported that limited resources and a failure to address all forms of trafficking hindered the implementation of the TCU’s national strategy.

8.2.3. *Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime*

The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (**Bali Process**) was established in 2002 as a regional forum for policy dialogue, information sharing, cross-border law enforcement, and practical cooperation to raise public awareness and address the challenges of people smuggling, human trafficking, and related transnational crimes. The Bali Process is co-chaired by Australia and Indonesia, and currently has 45 member states (including Vanuatu) and four member organisations. The Sixth Bali Process Ministerial Conference endorsed the 2016 Bali Declaration, which acknowledged the growing scale and complexity of irregular migration and supported measures that would contribute to comprehensive long-term strategies for addressing people smuggling and human trafficking.¹⁷⁵ The Bali Process now has a permanent Government and Business Forum to enhance collaboration between businesses and governments on combating human trafficking, forced labour, child labour, and modern slavery.

8.2.4. *Pacific Immigration Directors’ Conference*

Vanuatu is a member of the Pacific Immigration Directors’ Conference (**PIDC**), which was established in 1996.¹⁷⁶ The PIDC is a regional forum for immigration agencies to meet annually to discuss issues of mutual interest and to facilitate cooperation, with the objective of strengthening the integrity of immigration systems and territorial borders throughout the Pacific. The PIDC’s work includes: developing and harmonising immigration policy and legislation to be consistent with international standards; collating, exchanging, and analysing information about irregular migration to support evidence-based policy-making; conveying the views of Pacific immigration agencies at regional and international forums; and ensuring immigration officials are equipped to manage their borders and prevent criminal activity. The PIDC is also developing a Regional Framework to Combat Human Trafficking and People Smuggling, and it has published a policy brief on this issue.¹⁷⁷

8.3. NGO Cooperation

The IOM is a United Nations related entity and the leading inter-governmental organisation in the field of migration. The IOM provides services and advice to migrants and the governments of its 174 member

¹⁷⁴ <https://www.state.gov/reports/2020-trafficking-in-persons-report/sample-2020-tip-report-eap/>.

¹⁷⁵ *Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime* (Bali, 23 March 2016), available at: [https://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Declaration%20on%20People%20Smuggling%20Trafficking%20i%20Persons%20and%20Related%20Transnational%20Crime%202016%20\(1\).pdf](https://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Declaration%20on%20People%20Smuggling%20Trafficking%20i%20Persons%20and%20Related%20Transnational%20Crime%202016%20(1).pdf). See also *Declaration of The Seventh Ministerial Conference of The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process)* (Bali, 7 August 2018), available at: [https://www.baliprocess.net/UserFiles/baliprocess/File/BPMC%207%20Ministerial%20Declaration-Final\(2\)\(2\).pdf](https://www.baliprocess.net/UserFiles/baliprocess/File/BPMC%207%20Ministerial%20Declaration-Final(2)(2).pdf).

¹⁷⁶ <https://www.pidcsec.org/about-us/>.

¹⁷⁷ <https://www.pidcsec.org/UserFiles/PidcSec/File/Policy/20100924-Policy-brief%202-Human-Trafficking-and-People-Smuggling.pdf>.

states.¹⁷⁸ The IOM has assisted Vanuatu in training and building capacity for its border force. Last year, the Government requested further support from the IOM to develop an Integrated Border Management Strategy.¹⁷⁹

In addition, the Government of Vanuatu has collaborated with the IOM to provide services and relief to victims of trafficking, facilitated by foreign financial aid. These services include housing, food, utilities, and health care services for victims.¹⁸⁰ The IOM’s Migration Policy and Legislation Support project seeks to “strengthen the Government of Vanuatu’s institutional structures and operational tools to respond and address displacement and to support the mainstreaming of displacement and migration considerations into the policies and operations of government and non-governmental partners leading sectoral interventions.”¹⁸¹ This project aims to establish a body with the necessary expertise and resources required to implement a displacement policy. While this project targets 500 community members, government officials, and NGO staff members, it is estimated to benefit 15,000 displaced persons in Vanuatu. The IOM has provided technical support to the Prime Minister’s Office to develop the Ambae Recovery Plan, which includes camp management and displacement tracking in response to natural disasters.¹⁸²

Disclaimer: The codes, laws, and other information cited in this summary may not contain the most recent versions of such information and provide certain information available as of the month and year cited at the bottom of each page. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained in this summary or the information linked to in this summary. Please check official sources.

This summary should not be construed as legal advice on any specific facts or circumstances. The contents are intended only for general information purposes and may not be quoted or referred to in any other publication or proceeding. The provision of this information does not constitute an attorney-client relationship. Any views set forth herein are the personal views of the authors and do not necessarily reflect those of Rotary International/Rotary Action Group Against Slavery or of any contributing entity.

¹⁷⁸ <https://www.iom.int/about-iom>.

¹⁷⁹ https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf.

¹⁸⁰ https://www.unescap.org/sites/default/d8files/event-documents/Vanuatu_Voluntary%20GCM%20Survey%20Report.pdf.

¹⁸¹ <https://humanitariancompendium.iom.int/node/2338/appeals-print/>.

¹⁸² <https://humanitariancompendium.iom.int/node/2338/appeals-print/>.