

Prevention of Sexual Exploitation and Abuse (PSEA)

Country Mapping of Known Context, Legislation, Reporting and Referral Pathways — Vanuatu

An initiative
of ACFID's
Safeguarding
Community of
Practice



AUSTRALIAN
COUNCIL
FOR
INTERNATIONAL
DEVELOPMENT



These resources have been published by the Australian Council for International Development (ACFID) on behalf of its Safeguarding Community of Practice for the use of ACFID's members. The resources are a collaborative effort of the following ACFID member agencies:



These resources were last reviewed and verified in August 2020. They will be reviewed and updated periodically by the ACFID Safeguarding Community of Practice. Any feedback to improve the quality of these resources can be sent to learning@acfid.asn.au

Prevention of Sexual Exploitation and Abuse (PSEA) – Vanuatu

This document has been prepared to assist your organisation to better understand a) the general Prevention of Sexual Exploitation and Abuse (PSEA) context b) relevant PSEA legislation and c) available reporting and referral pathways for SEA in a particular country. **This document is not intended to be a definitive analysis of a country's PSEA system and should not be read as such. The information may have been updated at the source since its publication and the reader should follow links provided to fact check before they quote or share this information. It is recommended that you test contact details provided prior to sharing these referral pathways.**

Your organisation must refer to and follow your PSEA Policy when responding to SEA. If a victim/survivor of SEA is under the age of 18 years, consult your organisation's Child Protection Policy.

OVERVIEW OF PSEAH ISSUES

Demographics & Population	Vanuatu is a republic comprising 83 islands and atolls (63 of which are inhabited) in Melanesia. The total land area is 12,281 km ² . ¹ The total population is 234,023 (49.1% female and 50.9% male). Children aged 0-18 years comprise 44% of the total population, with infants and children aged 0-4 years making up the largest age bracket. Vanuatu has a growth rate of 2.4% per year, a fertility rate of 3.82 births per woman and life expectancy is 71 years. ² Around 75% of people live in rural areas, making it more difficult to access health, education and social services, as well as collect data. Vanuatu is the least populated of the Pacific Island countries in Melanesia. ³
Disability	People with disabilities constitute 12% of the total population, ⁴ with 11% of children living with some form of disability in 2012. ⁵ Although there is limited information about children living with disability, children with disability are more at risk of physical, emotional or sexual abuse, and neglect. Children with disability are also at greater risk of violence due to the difficulty to defend or express oneself; the chance of being a child carer to a disabled parent; the risk of not being registered at birth or for not reporting an abuse case involving children with disability due to feelings of shame or social stigma; and risk of being neglected within the community. ⁶
Disaster	Vanuatu is particularly prone to disaster and climate risks, including tropical cyclones, earthquakes, droughts, tsunamis, and volcanic eruptions.
Education	In 2016, 11.2% of children aged 6-13 years were not attending school. Non-attendance rates varied between urban and rural populations, as well as across islands (up to 20.4% in Tafea). In 2018, adult literacy rate for Vanuatu was 87.5% ⁷

1 UNICEF, 2017. *Situation Analysis of Children in Vanuatu*
 2 World Population Review, 2020. *Vanuatu*
 3 UNICEF, 2014. *National Child Protection Systems in the East Asia and Pacific Region: A Review and Analysis of Mappings and Assessments*
 4 Asia-Pacific Human Rights Information Centre, 2015. *Persons with Disabilities in Vanuatu*
 5 Australian DFAT, 2012. *Vanuatu Education Sector Program*
 6 Ministry of Justice and Community Services, 2016. *Vanuatu National Child Protection Policy 2016 - 2026*
 7 World Data Atlas. *Vanuatu Adult Literacy Rate*

Gender and Sexuality⁸ The UN Committee on the Elimination of Discrimination Against Women highlighted its concern regarding several aspects of women's unequal status in Vanuatu. One area that the Committee focused on was "the persistence of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of men and women in all spheres of life". The Committee concluded that the Vanuatu Government has yet to undertake sustained and systematic action to eliminate stereotypes and negative cultural values, which perpetuate discrimination against women women's unequal status in public life, decision making, marriage and family relations, and the persistence of violence against women.⁹

Attitudes and beliefs about women and their roles – perpetuated through institutions "such as churches, chiefs, and political parties through their doctrines, principles, and structures that discriminate against women" – were also identified as major obstacles for advancing women's development in a recent review of Vanuatu's national machinery for women, supported by AusAID and UN WOMEN. Lack of political will and leadership to advance gender equality and women's empowerment were also identified as challenges.¹⁰

Despite general human rights protections under the Constitution of Vanuatu, there are very few legal protections against discrimination against a person based on their sexual orientation, and no protections against discrimination on the basis of gender identity and sex characteristics. Consensual same-sex sexual activity has been legal since 2007.¹¹

Poverty In 2013 an estimated 15.8% of households were found to be multidimensionally poor, and 17.7% to be multidimensionally poor according to a novel Melanesian index. On average, Ni-Vanuatu households were deprived on 42.3% of indicators. In addition, 23% are not in poverty but vulnerable to poverty following a shock. Poverty is greatest in urban areas, especially Port Vila, and remote rural areas such as Baravet. It is lowest in Luganville and similar central-rural areas.¹²

Violence The high rates of all forms of violence against women (including violence by husbands/partners and non-partner violence) show that the use of violence as a form of punishment and discipline is accepted and condoned as a "normal" part of behaviour within many families and communities.¹³ The National Child Protection Policy identifies sexual abuse and incest are common, however the taboo nature of the issue does not enable public discussion to be held, nor is national-level information available. A child protection survey found 84% of respondents felt that sexual abuse is a big problem in Vanuatu, with most respondents agreeing that children are most often abused by someone they know and trust.¹⁴

The prevalence of sexual abuse against girls under the age of 15 are among the highest rates in the world. Almost 1 in 3 women (30%) were sexually abused before the age of 15 years, and the majority of perpetrators were male family members and boyfriends. For more than 1 in 4 women (28%), their first sexual experience was forced. Child marriage rates indicate 3% of girls are married by 15, and 21% married by 18.¹⁵

International evidence suggests that persons with disabilities are up to three times more likely to experience physical, sexual abuse and rape compared to people without disabilities.¹⁶

Vulnerability Vanuatu is one of the world's most vulnerable countries to natural disasters, frequently experiencing cyclones, earthquakes, tsunamis and volcanic eruptions. Emergencies occur on an annual basis, causing significant distress to communities, particularly those in isolated and rural areas. The effects this has on family livelihoods and access to basic services directly impacts family harmony and children's protection.¹⁷

8 Vanuatu Women's Centre (WVC), 2011. *Vanuatu National Survey on Women's Lives and Family Relationships*
 9 CEDAW, 2007. *Concluding CEDAW Comments: Vanuatu*
 10 Vanuatu Women's Centre, 2011. *Vanuatu National Survey on Women's Lives and Family Relationships*
 11 Kaleidoscope Human Rights Foundation and VPride Foundation, 2019. *Submission to the UN Universal Periodic Review Regarding the Protection of The Rights of LGBTI Persons in Vanuatu*
 12 Simon Feeny and Lachlan McDonald, 2013. *Multidimensional Poverty and Vulnerability in Solomon Islands and Vanuatu*
 13 Vanuatu Women's Centre, 2011. *Vanuatu National Survey on Women's Lives and Family Relationships*
 14 Save the Children Australia, 2019. *Unseen, Unsafe: The Underinvestment in Ending Violence Against Children in the Pacific and Timor-Leste*
 15 Girls not Brides, 2017. *Vanuatu*
 16 Ministry of Justice and Community Services. *National Disability Inclusive Development Policy 2018-2025*
 17 Ministry of Justice and Community Services, 2016. *Vanuatu National Child Protection Policy 2016 - 2026*

RELEVANT PSEA LEGISLATION

International Frameworks	Vanuatu ratified the Convention on the Rights of the Child (UNCRC) in 1993, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995 which largely acts as a bill of rights for women and prohibits the trafficking and exploitation of women, and obligates states to ensure free and full consent to marriage. In 2008, Vanuatu ratified two other general rights instruments, the Convention on the Rights of People with Disabilities (CRPD) and the International Covenant on Civil and Political Rights (ICCPR).
Legal System	<p>The Constitution of Vanuatu¹⁸ defines children as every person under the age of 18 years and enshrines a number of fundamental rights including the rights to life, liberty, security, equality and freedoms of expression and movement, and grants the Supreme Court jurisdiction to issue writs to enforce those rights.</p> <p>The Penal Code¹⁹ varies in considerations of sexual consent: Intercourse with a child under the age of 13 is punishable by imprisonment for up to 14 years; under the age of 15 by up to 5 years. Sexual intercourse with a child under the age of 18 is prohibited where the child is under the person's care or protection; homosexual intercourse under the age of 18 is prohibited.</p> <p>The Marriage Act identifies the legal age for marriage as 18 for boys and 16 for girls. Though customary law may see girls married as young as 12 years.²⁰ Both a Civil Marriage and a Church Marriage involve two people who have willingly consented to the marriage, whereas those who are party to Custom Marriage may not have willingly consented to the marriage.</p> <p>The Family Protection Act 2008²¹ outlines that acts of domestic violence are prohibited, including physical, psychological and/or emotional abuse and sexual abuse, and constitute an offence punishable by imprisonment of up to 5 years and/or a fine of up to V 100,000 (article 10). Significantly, it states that criminal liability is not circumvented even if the defendant has paid money as restitution within customary law. Customary reparations may be taken into account in sentencing and may be ordered by a court as compensation for injury, loss or damage (articles 10, 22). In addition, a complainant, or a friend or family member, legal practitioner or police officer with the complainant's consent, may apply to the court for free for a protection order. A protection order may restrain a person, and a breach of a protection order is an offence.</p>

18 [Constitution of Vanuatu](#) (1980)
 19 [Penal Code](#)
 20 [Marriage Act](#) (1971)
 21 [Family Protection Act](#) (2008)

Government Agencies	<p>The police are required to investigate a domestic violence offence or breach of a family protection order if they suspect on reasonable grounds that such has occurred. If the officer believes on reasonable grounds that the offence has in fact occurred, the officer must care the person with an offence and arrest the person if the complainant is in danger of personal injury. The officer is obliged to bring the person arrested to Court as soon as practicable and no later than 48 hours from the arrest.²²</p> <p>The Ministry of Justice and Community Services (MJCS) contains a Gender and Protection Desk for domestic violence and family protection issues. MJCS oversee the implementation of The National Disability Policy (2016-2022), and National Disability Inclusive Development Policy (2018-2025)²³ which identifies strategic priority areas to improve access to strengthened sexual and reproductive health and justice services for women and girls with disabilities, increase sexual and reproductive health services access for women and girls, and increase programs aimed at eliminating violence including sexual abuse and exploitation perpetrated against women and girls with disabilities. Further, MJCS have a Child Desk tasked with overseeing the Vanuatu National Child Protection Policy (2016-2026) – although it is worth noting there is currently no formal structure for child protection or child welfare services.²⁴ The Child Desk is a critical part of the National Child Protection Working Group comprised of representatives from government, CSOs, UN Agencies and NGOs across multiple sectors.</p> <p>Outside of Government Agencies, there are also traditional systems which are preferred by communities and considered fairer and effective in communities.²⁵ This kastom system operates informally in every village and town, with a central idea that the chief(s) of a community are responsible for managing the vast majority of disputes. There is a strong emphasis on restoring relationships, often to the detriment of the immediate victim, and there is reluctance to intervene in interfamilial issues, such as sexual abuse and violence, as intervening may be perceived to cause discord.²⁶ Kastom is endorsed in written Ni-Vanuatu law. It is recognised as a source of law, and Parliament is permitted to identify rules of kastom and allow those with kastom knowledge to sit with judges in Court.²⁷ The National Council of Chiefs is also recognised in the Constitution.²⁸ The Penal Code²⁹ and the Criminal Procedure Code³⁰ allow for judicial consideration of customary compensation, reparation or reconciliation in sentencing.³¹ This has occurred in several recent cases of sexual offences including offences against children.³² In some cases young girls have been offered by perpetrators to victims as replacement for lost lives, but the Supreme Court ruled in 2010 that this practice was 'akin to child trafficking and violates both women's and children's rights.'³³</p>
---------------------	--

22 [Family Protection Act](#) (2008)
 23 Ministry of Justice and Community Services. [National Disability Inclusive Development Policy 2018-2025](#)
 24 [Vanuatu Child Protection Policy 2016-2026](#)
 25 ECPAT International, 2014. [National Child Protection Systems in the East Asia and Pacific Region: A Review and Analysis of Mappings and Assessments](#)
 26 Victoria University of Wellington, 2004. [Beyond Case Law: Kastom and Courts in Vanuatu](#)
 27 [Constitution of Vanuatu](#) (1980)
 28 [National Council of Chiefs Act](#) (2006)
 29 [Penal Code](#)
 30 [Criminal Procedure Code](#) (1981)
 31 Vanuatu Law Commission, 2014. [Sexual Offences and Customary Reconciliation](#)
 32 See [Nakamura v Dalley](#) [2018] VUSC 134; [Matrimonial Case 04 of 2013](#); [Public Prosecutor v Samson Tasso](#) (2019) VUSC 16 Criminal Case 3371 of 2018; [Public Prosecutor v Philip](#) [2019] VUSC 15; [Criminal Case 3196 of 2018](#).
 33 Criminal Case no. 39 of 2010. [Public Prosecutor v Nalin Nawia](#)

REPORTING AND REFERRAL PATHWAYS FOR SEXUAL EXPLOITATION OR ABUSE

Service Name	Description	Coverage	Contact
Law Enforcement Agencies (to report cases to)			
Vanuatu Police Family Protection Unit	Family violence and child protection unit	National	Emergency 1111 Kumul Highway, Port Vila T 22222
Statutory Protection Agencies/Unit (to report abuse to)			
Ministry of Justice and Community Services	Responsible for implementing the NCPP through the Child Desk. Also operates the Gender and Protection Cluster. Primarily a policy and implementation body.	Port Vila	T +678 33615 E emil@vanuatu.gov.vu
Local Health and Medical Services (to refer cases to)			
Vanuatu Women's Centre	Counselling and support to women and children at risk of domestic violence, including legal aid, referrals, human rights, legal and policy advocacy, community education and research	National	T 24000 24 Hour Crisis Line T 25764 E vwncc@vanuatu.com.vu Rue d'Anjou, Nambatu, Port Vila
<p>Counselling Centres</p> <p>Sanma Counselling Centre T 36157 or 7771128</p> <p>Torba Counselling Centre T 7793459 or 7102422</p> <p>Penama Counselling Centre T 25764</p> <p>Malampa Counselling Centre T 7799165</p> <p>Tafea Counselling Centre T 88660 or 7101869</p>			
Vanuatu Family Health Association	Sexual and reproductive health	Port Vila, Santo, and a roaming mobile clinic	A Leeman House, 2 Emile Mercet Street, Port Vila T 22140 E vfha@vanuatu.com.vu

Support Agencies (to refer cases to)			
Vanuatu Women's Centre	Counselling and support to women and children at risk of domestic violence, including legal aid, referrals, human rights, legal and policy advocacy, community education and research	Port Vila	T 25764 or 24000 E vwncc@vanuatu.com.vu Rue d'Anjou, Nambatu, Port Vila See counselling centre contacts above.
The Vanuatu Family Health Association (VFHA)	Local non-governmental organisation involved with family planning	Port Vila, Santo	T 22140 or 36129 E vfha@vanuatu.com.vu Leeman House, 2 Emile Mercet Street, Port Vila
Ombudsman	Receives human rights abuses carried out by state bodies.	National	T 27200 E ombudsman@vanuatu.gov.vu
Key Advocacy Services, Networks, and Agencies			
Gender and Protection Cluster, Ministry of Justice & Community Services Department of Women's Affairs	Gender Based Violence advocacy to Government and the communities	National	Director, Rothina Ilo Noka E rinoka@vanuatu.gov.vu
Vanuatu Teacher's Union Women's Network	Lobby women and children's rights	Port Vila Luganville	T 23679 or 26903 T 37877
Australian Federal Police and Embassy or Consular (if any person involved is an Australian National)			
Australian Federal Police	Report Child Offences by Australians		T (+61) 2 6131 3000 After Hours (+61) 2 6126 7777 Online Reporting Form: https://forms.afp.gov.au/online_forms/cst_form
Australian High Commission in Vanuatu	Consular Assistance	National	T 22777 (24 Hours) Winston Churchill Avenue, Port Vila





AUSTRALIAN
COUNCIL
FOR
INTERNATIONAL
DEVELOPMENT



Authors: ACFID

Cover photo and design:
Kate Bensen

Published: November 2020

 <https://acfid.asn.au>

 main@acfid.asn.au

 +61 2 6285 1816

 twitter.com/ACFID

 www.facebook.com/ACFID

 ACFID, 14 Napier Close, Deakin, ACT 2600