

HUMAN RIGHTS ISSUES – UPR 2010

	<u>ISSUES</u>	<u>EVIDENCE</u>	<u>SOLUTIONS</u>	<u>BREACHES</u>
1	Dialogue – Government rejects right of dialogue with landowners on land issues, rehabilitation, pricing of phosphate, pinnacles	Letters to President requesting meeting, information, etc., to open dialogue (x 5)		UDHR Article 19
2	NRC does not want to give out information regarding lands: <ul style="list-style-type: none"> • phosphate prices • cost of production • weekly reports on mining operations • integrity of land boundaries (post-primary mining and prior to secondary mining) • numerous allegations of phosphate short-supplied to buyers, despite certified bills of lading, causing loss of revenue to landowners • the system of identifying and redeeming short supplies of phosphate • the system of payments of the phosphate short-supplied • access to information on market value of phosphate 	Appointment with NRC CEO on 15 th May, 2010.	Information Landowner Board Member legislate	UDHR Articles 17 & 19
3	RONPHOS does not want to give out information regarding lands: <ul style="list-style-type: none"> • phosphate prices • cost of production • weekly reports on mining operations • integrity of land boundaries (post-primary mining and prior to secondary mining) • numerous allegations of phosphate short-supplied to buyers, despite certified bills of lading, causing loss of revenue to landowners • the system of identifying and redeeming short supplies of phosphate • the system of payment of the phosphate short-supplied • access to market value of phosphate 			
4	Denial to access of audited annual accounts since 2006 to date.			

	<p>Non-payment of annual interest of Ronwan fund since 2004</p> <p>Payments of Ronwan interest prior to 2006 made without proper audit certification and without parliamentary approval in accordance with law</p>			
5	<p>Annual reports are not tabled in Parliament: NRC, RONPHOS, NPRT</p>	<p>Since 1990s</p>	<p>Information Good governance Government is not practicing good governance by not enforcing legal requirements on NRC to provide annual reports. Government not exercising its fiduciary responsibilities.</p>	<p>UDHR Article 19</p>
6	<p>NRC GIS and Lands & Survey land maps of determined lands do not match. Landowners have claimed that according to GIS maps, their lands have been cut into (reducing the size) and created new undetermined lands.</p> <ul style="list-style-type: none"> • The right to security of property and integrity of landownership. • Despite differences of opinion between NRC CEO and Director of Lands & Survey on credibility of land portion boundaries prior to secondary mining, NRC has arbitrarily commenced secondary mining. • NRC mines without lease agreements showing land boundaries. • NRC mines in disregard of landowners' rights to show land boundaries prior to mining. • Government absconds from its responsibility to ensure NRC establishes proper mining procedures to protect rights of landowners. 	<p>Discussion with NRC CEO</p> <p>SLM workshop. NRC Theodalyte cannot measure boundary in mined-out area/pinnacle</p>	<p>To provide information</p> <p>NRC will not provide information</p> <p>Landowners to appoint representatives on NPRT Board, etc.</p> <p>Technical and financial assistance to Landowners to address land grievances</p>	<p>UDHR Articles 17, 19 & 25</p> <p>Article 83 of the Nauru Constitution</p>

7	<p>Secondary mining process based on imaginary boundaries. NRC applies GIS maps which are at variance with Lands & Survey maps, thereby creating new undetermined lands.</p> <p>NRC mines in deliberate contravention of the provisions in Section 8 (2) of the Nauru Lands Act.</p> <p>Present secondary mining on arbitrary boundaries compromises boundaries of lands presently mined and jeopardizes the integrity of future landownership rights.</p> <p>Lands Act – Section 8 is ignored by Government. To renegotiate lease every five years. (Five years after the date of execution of the lease, the phosphate land lease agreement expires.)</p> <p>Deliberate contravention of statute law by Government to deprive landownership rights.</p>	Section 8 of Lands Act 1976	Without access to Annual Reports, landowner is disadvantaged from making informed decisions when negotiating new lease agreements.	<p>UDHR Article 17 (1), (2).</p> <p>Article 8 of the Nauru Constitution</p>
8	<p>President decree made in Government Gazette stopping payments on land rentals, cash advance royalty, surface rights.</p> <p>Mining company continues to occupy lands for access roads and other permanent installations without payments.</p> <p>Compulsory acquisition of lands.</p> <p>Expropriation of lands.</p>	Gazette No. 132/30 December 2009	<p>Violation of right to property. Respect the rights of people and do the right thing.</p> <p>Do not want compulsory acquisition. Airport – lease without lease.</p>	<p>UDHR Articles 6, 7, 8 & 17</p> <p>ICESCR Part 1 Article 1 (1)</p> <p>Article 8 of Nauru Constitution</p> <p>UDHR Article 17</p>
9	<p>Health Department funded a non-Nauruan for overseas medical referral. Nauruans are denied overseas medical referral. Landowners' monies.</p> <p>Misuse of phosphate royalties. Every landowner's royalties contributed to the health budget.</p>	<p>Nauru Consulate Office (Brisbane) hospital bills paid for a non-Nauruan patient</p> <p>Approved by the Minister of Health</p> <p>Patient travel document as a non-Nauruan</p>	<p>Fulfil Nauruans are denied overseas medical referrals</p> <p>Majority NO in referendum</p>	UDHR Article 25
10	Referendum Article 8 does not provide for market value, fair compensation and to increase land rate	Referendum Booklet		

	Intention is for compulsory acquisition without market value and just and fair compensation.			UDHR Article 17
11	<p>Landowners are denied the right to negotiate on phosphate prices and selection of phosphate buyers.</p> <p>Landowners are denied the right to determine distribution of phosphate revenue.</p> <p>Government has the sole right to mine phosphate and must be excluded from negotiations due to conflict of interest.</p> <p>Landowners are denied the right of consultation prior to Government signing an international treaty committing 33% of total phosphate revenue annually for twenty years commencing 2011.</p>	<p>NLOA letter to President dated 9/6/08 and NLOA letter dated 23/6/08.</p> <p>NLOA letter to President dated 9/6/08 and NLOA letter dated 23/6/08.</p> <p>Article 83 of Constitution of Nauru on Government's sole right to mine phosphate.</p> <p>ITF Prospectus 10 November 2009/Donor Roundtable 14-15 November 2009</p>	<p>Right to fair price</p> <p>To establish Local Council</p>	<p>UDHR Article 8</p> <p>ICESCR Part 1 Article 1 (2)</p> <p>UDHR Articles 17 & 19</p>
12	Landowners are denied the right to be represented and/or to appoint members to the Board of Directors of NRC, RONPHOS, Nauru Lands Committee, NPRT, ITF		<p>Right to information</p> <p>Landowners' consultation</p>	UDHR Articles 17 & 19
13	Government denied the right of landowners to open discussions on land matters	<p>Term of reference of Parliament Select Committee in Parliament sitting of 13 October 2009.</p> <p>Gazette No. 132/30 December 2009.</p>	To re-establish NLGC	UDHR Article 19
14	Some landowners are paid land rentals and cash advance royalties while others are not.		<p>Discrimination on part of RONPHOS.</p> <p>There is legal requirement to pay for use of property.</p> <p>Government to enforce mining company to meet requirements.</p>	UDHR Article 7
15	<p>Rental and royalties paid in instalments which is not part of the agreement. RONPHOS & NRC using funds to pay selective pending salaries.</p> <p>Breaches of lease agreements by Government.</p> <p>Supreme Court decisions in favour of landowners are not enforced by the Government.</p>	<p>RONPHOS Act</p> <p>As in landowner's statement</p>	RONPHOS Act	UDHR Articles 6, 7, 8.
16	Non-payment of balance of rentals by Government	Budget Reform 2004/5/6/7	Respect the rights of people and do the	UDHR

	prior to 2009 – Cemeteries, Government Buildings, Schools, Aerodrome. (As above)		right thing. Land Lease Agreement.	Articles 6, 7, 8.
17	Non-payment of exported coral rock Deprivation of property		Right to property. Right to enjoyment of property.	UDHR Article 17
18	Disregard/contempt of Supreme Court order for RONPHOS to pay royalties on exported phosphate. (See 15)			UDHR Articles 6, 7, 8.
19	Free and fair elections of Government <ul style="list-style-type: none"> • Unfair process of transfers of voters • Corrupt administrators for proxy voters 		Independent observers to report to NGOs	UDHR Article 21
20	Freedom to operate business without unfair Government harassment	Western Union (Nauru) was raided by Department of Justice with a court warrant on 2 nd July, 2010. Computers, documents and other properties confiscated.	Independent investigation required Media discussions	UDHR Article 12, 17 & 28