

TUVALU 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Tuvalu is a constitutional parliamentary democracy. Parliamentary elections held on March 31 were generally free and fair, with three new members elected into the 15-member parliament. There were no formal political parties. Parliament selected Enele Sopoaga for a second term as prime minister. Civilian authorities maintained effective control over the security forces.

There were human rights problems in a few areas. In particular, traditional customs and social patterns perpetuated discrimination against women and minority religious groups. Domestic violence remained a problem.

Impunity was not a problem, and there were no reports government officials committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports government officials employed them.

Traditional assemblies of local hereditary elders exercise discretionary punishment and disciplinary authority on each island, as defined in the 1997 Falekaupule Act. This includes the right to inflict corporal punishment for infringement of customary rules, but there were no reports of such corporal punishment during the year.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards.

Physical Conditions: There were no deaths of inmates during the year.

Administration: Although there were no official alternatives to incarceration for nonviolent offenders, victims could request restitution in place of incarceration for offenders. The country does not have a formal ombudsperson who can act on behalf of prisoners and detainees, but the “people’s lawyer” (public defender) was available to respond to prisoner complaints. The government did not investigate or monitor prison conditions and did not receive any complaints or allegations of inhuman conditions.

Independent Monitoring: The government permits visits by independent human rights observers, but there were no visits during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The police force, under the Office of the Prime Minister, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the national police service, and the government has effective mechanisms to investigate and punish police abuse and corruption. There were no reports of impunity involving security forces.

Arrest Procedures and Treatment of Detainees

The law permits arrests without a warrant if a police officer witnesses the commission of an unlawful act or has “reasonable suspicion” an offense is about to be committed. Police estimated the majority of arrests were without warrant. Police may hold a person arrested without a warrant for a maximum of 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the warrant states the maximum permissible detention time before the court must hold a hearing, which is normally one to two weeks. Authorities did not hold suspects incommunicado or under house arrest.

Authorities generally informed arrested persons promptly of the charges against them, although bureaucratic delays sometimes occurred because persons charged with serious offenses must await trial at a semiannual session of the High Court. There was a functioning system of bail. A people's lawyer was available free of charge to arrested persons and for other legal advice. Persons living on outer islands did not have rapid access to legal services because the people's lawyer, based on the main island of Funafuti, traveled infrequently to the outer islands. The country had no attorneys in private practice.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. The law provides for a presumption of innocence. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to be informed promptly and in detail of the charges, including free interpretation, if necessary; consult with an attorney in a timely manner; and have access to the people's lawyer and adequate time and resources to prepare a defense. They also have the right to confront witnesses, present witnesses and evidence, access government-held evidence, and appeal convictions. Defendants may not be compelled to testify or confess guilt.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights. An effective judiciary and a functioning democratic political system combined to promote freedom of speech and press.

Press and Media Freedoms: Although there were no government restrictions, the government's Media Department controlled the country's sole radio station. There were no locally based private, independent media.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority. Internet access was available primarily on Funafuti, although connections were slow, expensive, and unreliable. According to the International Telecommunication Union, approximately 37 percent of the population accessed the internet in 2013.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly but also gives island chiefs authority to restrict religious activities of organizations deemed a threat to the values and culture of the island community or deemed divisive, unsettling, or offensive to the people. The government continued to protect the right to choose freely and practice religion but called for religious organizations to abide by island chiefs' restrictions on public worship and public religious group meetings. Religious minorities practiced openly in violation of the restrictions. There were no reports of arrests or fines.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, but the government has not established a system for providing protection to refugees. There were no applications for asylum or refugee status during the year.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair elections, which they exercised in periodic elections based on universal and equal suffrage, and citizens exercised that ability.

Elections and Political Participation

Recent Elections: Parliamentary elections held on March 31 were generally free and fair, with three new members elected into the 15-member parliament. Parliament selected Enele Sopoaga for a second term as prime minister.

Political Parties and Political Participation: There were no formal political parties. Parliament tended to divide itself between an ad hoc faction with at least the minimum eight votes to form a government and an informal opposition faction.

Participation of Women and Minorities: The 15-member parliament included one woman. Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no members of minorities in parliament or the cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for some forms of official corruption, such as theft; however, laws against corruption are weak. In contrast with past years, there were no reports of government corruption. The public, however, criticized frequent overseas travel by government ministers and other officials.

The law provides for annual public ministerial reports, but publication was irregular and often nonexistent. In 2014 the Office of the Auditor General (OAG) established a website to provide the public greater access to annual audit reports of the government's financial statements. To date it has posted the 2013 audit report. During the year the Central Procurement Unit, under the Ministry of Finance and Economic Development, set up a website to improve access by the public to government bidding opportunities and to make the process more transparent.

Since 2009, together with Nauru and Kiribati, the country participated in three rounds of a subregional audit support program, an initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling audits of public accounts to meet uniformly high standards in a timely manner.

Corruption: Parliament established the OAG to provide government oversight, to improve accountability, and improve performance of the public sector; however, it remained underfunded and lacked adequate staff to monitor corruption effectively. When needed, the police also played a role in investigating charges of corruption.

Financial Disclosure: The law requires income and asset disclosure by public office holders. In August 2014, the government appointed a chief ombudsperson to implement the Leadership Code Act and its financial disclosure provision. The first chief ombudsperson assumed the five-year post in October 2014.

Public Access to Information: No law provides for public access to government information. The government was somewhat cooperative in responding to individual requests for such information and provided limited copies of its annual budget documents to the public on request.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

No nongovernmental organizations (NGOs) focused entirely on human rights, although no known barriers existed to the establishment of human rights groups. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of NGOs, composed primarily of faith-based organizations. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. Nonetheless, opportunities to publicize such information locally remained limited by the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

Government Human Rights Bodies: The people's lawyer monitored sentencing, equality before the law, and human rights issues in general. The institution had government support and could respond to requests for advice from the government.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, color, and place of origin, and the government generally enforced these prohibitions. In 2005 the High Court stated it was a deliberate decision to omit gender as a prohibited basis of discrimination when drafting the constitution.

Women

Rape and Domestic Violence: Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense.

The law recognizes domestic violence as a criminal offense. Under the Family Protection and Domestic Violence Act 2014, domestic violence offenses are punishable by a maximum of five years imprisonment or a maximum fine of A\$1,000 (\$710), or both. Under the assault provisions of the penal code, the maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, five years' imprisonment.

Police have a Domestic Violence Unit, a "no-drop," evidence-based prosecution policy in cases of violence against women, and operate a 24-hour emergency line for victims of domestic violence. The law recognizes the existence of domestic violence and gives express powers for police involvement and intervention, including the power to enter private property. Police may also issue orders for a

person who has committed an act of domestic violence to vacate property, whether or not that individual has rights to that property, if a person at risk of further violence occupies it. The government has a memorandum of understanding with the Tuvalu National Council of Women for handling domestic violence cases. The Women's Crisis Center, operated by the women's council, provided counseling services, but there were no shelters for abused women. Cases of rape and domestic violence often went unreported due to lack of awareness of women's rights and traditional and cultural pressures on victims.

Sexual Harassment: The law does not specifically prohibit sexual harassment but prohibits indecent behavior, including lewd touching. Reports of sexual harassment were uncommon and there were no cases reported during the year.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and couples have the means and information to do so, free from discrimination, coercion, and violence. The nongovernmental Tuvalu Family Health Association provided information and education about, and access to, contraception. Government hospitals offered family planning services and provided free prenatal, obstetric, and postnatal care. Trained health personnel attended many births.

Discrimination: Aspects of the law contribute to an unequal status for women, for example in land inheritance and child custody rights. There are no laws preventing employment discrimination based on gender or requiring equal pay for equal work, and such discrimination occurred (see section 7.d.). Women held a subordinate societal position, constrained in some instances by both law and traditional cultural practices. Nonetheless, women increasingly held positions in the health and education sectors, headed a number of NGOs, and were more active politically.

There is a Department of Gender Affairs within the Prime Minister's Office.

Children

Birth Registration: A child derives citizenship at birth, whether born in the country or abroad, if either parent is a citizen. The law requires registration of births within 10 days, a practice generally observed.

Child Abuse: The government did not compile child abuse statistics, and there were no reports of child abuse during the year. Anecdotal evidence, however, indicated child abuse occurred. The law confirms the right of parents, teachers,

and others having lawful control of a child to use corporal punishment, and reports indicated this occurred in schools and homes.

Early and Forced Marriage: The legal minimum age of marriage for both girls and boys is 16 years.

Sexual Exploitation of Children: The age of consent for sexual relations is 15 years. Sexual relations with a girl younger than 13 years carries a maximum punishment of life imprisonment. Sexual relations with a girl older than 12 but younger than 15 years carries a maximum penalty of five years' imprisonment. The victim's consent is irrelevant under both these provisions; however, in the latter case, reasonable belief the victim was 15 years or older is a permissible defense. No provision of law pertains specifically to child pornography, although the penal code prohibits obscene publications in general.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that Tuvalu was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities, including in employment, education, air travel and other transport, or the provision of other state services. Government services to address the specific needs of persons with disabilities were very limited. There were no mandated building accessibility provisions for persons with disabilities. The one multistory government building had nonoperational elevators, and there were no elevators in other multistory buildings. Persons with disabilities had limited access to information and communications. The Fusi Alofa Association of Tuvalu (FAA Tuvalu) (the Tuvalu National Disabled Persons Organization) and the Tuvalu Red Cross undertook regular home visits to persons

with disabilities and conducted educational programs to raise community awareness of the rights of persons with disabilities and advocated for such persons.

Children with disabilities reportedly had lower school attendance rates at all levels than other children. Some students with disabilities attended government-run public primary schools both in Funafuti and in several outer islands. The FAA Tuvalu operates a separate school for children with disabilities in Funafuti. Parents make the decision concerning which school a child with disabilities attends after consultation with an FAA Tuvalu advisor.

The Community Affairs Department in the Ministry of Home Affairs and Rural Development is responsible for protecting the rights of persons with disabilities.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Sexual conduct between men is illegal, with penalties of seven to 15 years' imprisonment depending on the nature of the offense, but there were no reports of prosecutions of consenting adults under these provisions. The law does not specifically prohibit discrimination based on sexual orientation or gender identity. There are no hate crime laws, nor are there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the lesbian, gay, bisexual, transgender, and intersex community. There were no reports of violence against persons based on sexual orientation or gender identity, but social stigma or intimidation may have prevented reporting of incidents of discrimination or violence.

HIV and AIDS Social Stigma

Persons with HIV/AIDS faced some societal and employment discrimination (see section 7.d.). The government and NGOs cooperated to inform the public about HIV/AIDS and to counter discrimination. There were no reports of violence against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of private-sector workers to form and join independent unions, bargain collectively, and conduct legal strikes. The law does

not permit public-sector employees such as civil servants, teachers, and nurses to form and join unions. They may join professional associations that have the right to bargain collectively but not the right to strike. No laws prohibit antiunion discrimination.

In general the government effectively enforced these laws. By law employers who violate laws on freedom of association and the right to collective bargaining are liable to a maximum fine of A\$100 (\$71) depending on the violation, and in some cases imprisonment for a maximum of six months. The law also provides for voluntary conciliation, arbitration, and settlement procedures in cases of labor disputes. In general these procedures were not subject to lengthy delays or appeals.

Although there are provisions for collective bargaining and the right to strike, the few individual private-sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes. There was only one registered trade union, the Tuvalu Overseas Seamen's Union. There were no reports of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor and states that any person who exacts, procures, or employs forced or compulsory labor is liable to a fine of A\$100 (\$71). The government effectively enforced the law. There were no reports of forced labor occurring in the country during the year.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children younger than 14 years from working in the formal labor market. The law also prohibits children younger than 15 years from industrial employment or work on any ship and stipulates that children younger than 18 years are not allowed to enter into formal contracts, including work contracts. A separate provision of law, however, allows children 15 years or older to enter into apprenticeships for a maximum of five years, subject to approval by the commissioner of labor. There are restrictions on the type of work a child apprentice may perform, and he or she must receive a medical examination and be determined physically and mentally fit for employment in the specified occupation. Apprentices may lawfully live away from their families; in such cases, the contract must adequately provide for the supply of food, clothing, accommodation, and

medical attention for the apprentice. There are no legal restrictions prohibiting girls older than 15 years from working aboard ships, or during the night.

The government did not have sufficient resources to monitor and enforce child labor laws and depended instead on communities to report offenses. Children rarely engaged in formal employment but worked in subsistence fishing. The government does not collect or publish data on child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment or Occupation

Labor laws and regulations do not prohibit discrimination based on race, gender, disability, language, sexual orientation, gender identity, HIV or other communicable disease status, or social status, and these persons sometimes experienced discriminatory practices. Women suffered discrimination in employment and wages. In the wage economy, men held most higher-paying positions, while women held the majority of lower-paying clerical and retail positions. Additionally, few women could access credit to start businesses. Local agents of foreign companies that hired local seafarers to work abroad also barred persons with HIV/AIDS from employment.

e. Acceptable Conditions of Work

The law provides for the government to set a minimum wage. As of November, however, the Department of Labor in the Ministry of Foreign Affairs, Trade, Tourism, Environment, and Labor had not done so. The minimum annual salary in the public sector was approximately A\$3,000 to A\$4,000 (\$2,100 to \$2,800). No recent poverty-level income figure was available. According to the Department of Labor, the minimum salary barely sufficed to allow a worker and family in the wage economy to maintain a decent standard of living. Private-sector wages were reportedly somewhat lower than the minimum public-sector wage rate.

The law sets the workday at eight hours, and the Ministry of Foreign Affairs, Trade, Tourism, Environment, and Labor may specify the days and hours of work for workers in various industries. Although there is provision in the law for premium pay for overtime work, there are no established premium overtime rates. The law provides for rudimentary health and safety standards and requires employers to provide adequate potable water, basic sanitary facilities, and medical

care. Workers can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation.

The Ministry of Foreign Affairs, Trade, Tourism, Environment, and Labor is responsible for the enforcement of wage, hour, health, and safety regulations, but the ministry did not have sufficient resources to formally and regularly conduct inspections of the laws' application. By law penalties for violations of laws related to acceptable conditions of work could be liable to a maximum fine of A\$100 (\$71) depending on the violation, or imprisonment for a maximum of six months if the person failed to pay an imposed fine. The Department of Labor had only one staff member, who relied on information from the community and conducted inspections when the office received complaints.

Approximately 75 percent of the working-age population lacked permanent employment and worked in the informal and subsistence economy. There is no system for reporting and publishing workplace injuries or deaths.