

# TUVALU 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Tuvalu is a constitutional parliamentary democracy. Observers judged parliamentary elections held in 2019 were free and fair, with seven new members elected to the 16-member parliament. There are no formal political parties. Following the elections, parliament selected Kausea Natano as prime minister.

The national police service, under the Ministry of Justice, Communications, and Foreign Affairs, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the security forces. Members of the security forces were not reported to have committed abuses.

Significant human rights issues included credible reports of: laws criminalizing consensual same-sex sexual activities between men, although the law was not enforced.

The government took steps to investigate officials who committed human rights abuses or engaged in corruption. Impunity was not a problem.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or**

## **Punishment, and Other Related Abuses**

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

Impunity was not a significant problem in the security forces.

### **Prison and Detention Center Conditions**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

**Administration:** The ombudsperson can act on behalf of prisoners and detainees and respond to prisoner complaints. The government did not investigate or monitor prison conditions and did not receive any complaints or allegations of problematic conditions.

**Independent Monitoring:** The government permits visits by independent human rights observers. Representatives from *Ekalesia Kelisiano Tuvalu* (Congregational Christian Church of Tuvalu) visit twice a week, providing counseling for prisoners and religious services for its members.

### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

#### **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 a “reasonable suspicion” an offense is about to be committed. Police estimated the majority of arrests were without warrants. 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 bail system. The people's lawyer (like a public defender) was available free of charge to arrested persons and for other legal advice. Persons living on the outer islands did not have rapid access to legal services because the people's lawyer, based on the main island of Funafuti where the capital is located, traveled infrequently to the outer islands. The country had only one attorney in private practice.

### **e. Denial of Fair Public Trial**

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

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

#### **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 abuses through domestic courts.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and**

## **Other Media**

The law provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An effective judiciary and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

**Censorship or Content Restrictions for Members of the Press and Other Media, including Online Media:** Although there were no government restrictions, the government's Media Department controlled the country's sole radio and television station. There were no local private, independent media to express a variety of views.

## **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.

## **b. Freedoms of Peaceful Assembly and Association**

Although the law provides for the freedoms of peaceful assembly and association, the government allows certain restrictions on the freedom of peaceful assembly.

## **Freedom of Peaceful Assembly**

The law provides for freedom of peaceful assembly; however, the government allowed island chiefs to place restrictions on assembly for public worship.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

## **d. Freedom of Movement and the Right to Leave the Country**

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

## **e. 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 reported 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 in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** The 2019 parliamentary election was generally considered free and fair, with seven new members elected to the 16-member parliament. Following the election, parliament selected Kausea Natano 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 votes required to form a government and an informal opposition faction.

**Participation of Women and Members of Minority Groups:** No law limits participation of women, members of minority groups, persons with disabilities, or members of the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community in the political process, and they did participate. Participation by women in politics was low, hindered largely by their subordinate societal position and by traditional perceptions of women's role in society. Several women served in senior government positions, however, including as diplomats. The 16-member parliament included one woman. There were no members of minority groups in parliament or the cabinet.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for some forms of corruption by officials such

as theft and offers or solicitation of bribes to influence the performance of duties, and the government generally implemented the law effectively. There were no reports of government corruption.

The Office of the Attorney General, police force, ombudsperson, auditor general, Public Service Commission, and Central Procurement Unit were responsible for the government's anticorruption efforts.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

No nongovernmental organizations (NGOs) focused solely on human rights, although no known barriers exist to the establishment of human rights groups. Some NGOs that included human rights in their agenda, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of NGOs, composed primarily of faith-based organizations. Domestic organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases via social media platforms. Government officials were somewhat cooperative and responsive to local organizations' views.

**Government Human Rights Bodies:** The Office of the Ombudsman includes a national human rights institution to promote and protect human rights in the country.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** Rape of women is punishable by a minimum sentence of five years' imprisonment. A perpetrator of "indecent assault" on a man is "liable to imprisonment for seven years." The law recognizes spousal rape. The law recognizes domestic violence as a criminal offense. Under the law domestic violence offenses are punishable by a maximum five years' imprisonment, a fine, 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, it is five years.

Police have a Domestic Violence Unit, employed a “no-drop” evidence-based prosecution policy in cases of violence against women, and operated a 24-hour emergency telephone line for victims of domestic violence. The law gives police explicit powers to intervene in violent circumstances, including the power to enter private property and order a person who has committed an act of domestic violence to vacate the property, regardless of whether that individual has rights to that property, if another person at risk of further violence occupies it. The Women's Crisis Center provided counseling services, but there were no shelters for abused women. The government generally implemented the law effectively, but 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. The Attorney General's Office, police, and NGOs conducted nationwide awareness campaigns.

**Sexual Harassment:** The law does not specifically prohibit sexual harassment but prohibits indecent behavior, including lewd touching. The *Tuvalu Study on People with Disability*, released by the government in 2018, found that women with disabilities were subject to abuse and harassment, including sexual abuse.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. The Tuvalu Family Health Association continued to raise awareness of cervical cancer and early screening with young mothers, expectant mothers, youths, and persons with disabilities in Funafuti and the outer islands of Nukufetau, Nui, Nanumaga, and Vaitupu. The purpose was to assist these groups and provide them with greater opportunity to make informed decisions on reproductive and health issues.

There were no legal barriers to accessing contraception, but some religious beliefs and cultural barriers, including women's reluctance to utilize modern contraceptives and the stigma attached to certain health issues, limited the use of contraceptives. Limited reproductive health services were available in the outer islands and skilled health attendance during childbirth was available only at the main hospital in the capital, Funafuti. According to a *2019-2020 Multiple Indicator Cluster Survey* of 880 households carried out by the government and

supported by UNICEF, approximately 16 percent of girls and women ages 16-49 who reported menstruating in the previous 12 months also reported that they did not participate in social activities, school, or work due to their last menstruation. The government provided access to health care, including emergency contraception, for survivors of sexual violence. The government also provided financial support to NGOs that assist survivors of sexual violence.

**Discrimination:** Aspects of the law contribute to an unequal status for women, for example in land inheritance and child custody rights. No law bars employment discrimination based on gender or requires equal pay for equal work, and such discrimination occurred. Nonetheless, women increasingly held positions in the health and education sectors and headed several NGOs.

## **Systemic Racial or Ethnic Violence and Discrimination**

There are no laws to protect members of racial or ethnic minority groups from violence and discrimination.

The country is relatively homogeneous, with a large Tuvaluan majority and small Tuvaluan/I-Kiribati and other minority groups. There were no reports of discrimination or violence against members of minority groups.

## **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.

**Education:** Education is compulsory until age 15. No law specifically mandates free basic education, but government policy generally provided free basic education for all.

**Child Abuse:** There are no laws against child abuse. The government does not collect or publish data on child abuse, and there were no reports of child abuse during the year. Anecdotal evidence, however, indicated child abuse occurred. The law prohibits corporal punishment.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage for



both girls and boys is 18. According to the *2019-2020 Multiple Indicator Cluster Survey*, 0.2 percent of girls and women ages 15-49 first married before age 15. The survey found that 8.6 percent of women ages 20-49 first married before age 18, while 1.8 percent of women in a younger cohort, ages 20-24, first married before age 18. According to a 2017 UNICEF report, *Situation Analysis of Children in Tuvalu*, the shame and stigma associated with teenage pregnancy forced some girls into marriage.

**Sexual Exploitation of Children:** The age of consent for sexual relations is 15. Sexual relations with a girl younger than 13 carry a maximum punishment of life imprisonment. Sexual relations with a girl aged 13 or 14 carry a maximum penalty of five years' imprisonment. No law prohibits the use, procurement, or offering of boys from age 15 through 17 for sex. The victim's consent is irrelevant under both these provisions; however, in the case of sexual exploitation of boys, reasonable belief the victim was 15 or older is a permissible defense. No provision of law pertains specifically to child pornography, although the penal code prohibits obscene publications in general. Although child trafficking is prohibited, the law prescribes a harsher punishment for the trafficking of adults than of children.

## **Antisemitism**

There was no known Jewish community, and there were no known reports of antisemitic acts.

## **Trafficking in Persons**

There were no confirmed reports during the year that traffickers exploited domestic or foreign victims in the country or that traffickers exploited victims from Tuvalu abroad.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** The law prohibits consensual sexual conduct between men, with penalties of seven to 15 years' imprisonment. While there were no reports of

prosecutions under the law, negative views towards all LGBTQI+ individuals made them vulnerable to discrimination and societal stigmatization.

**Violence against LGBTQI+ Persons:** There were no reports of violence against persons based on sexual orientation or gender identity, but social stigma or intimidation may inhibit reporting of such discrimination or violence.

**Discrimination:** The law does not specifically prohibit discrimination based on sexual orientation, gender identity or expression, or sex characteristics; nor does it recognize LGBTQI+ individuals, couples, or their families. There are no hate crime or antigay propaganda laws, nor are there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the LGBTQI+ community.

**Availability of Legal Gender Recognition:** Legal gender recognition, by which the government allows individuals to change their gender identity marker on legal and identifying documents to bring them into alignment with their gender identity, was not available.

**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** There were no known reports of involuntary or coercive medical practices targeting LGBTQI+ individuals.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** There were no restrictions of freedom of expression, association, or peaceful assembly on those speaking out about LGBTQI+ issues.

## **Persons with Disabilities**

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities. 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. Persons with disabilities had limited access to information and communications, including participation in civic life, and were subject to discrimination in employment (section 7.d.). Persons with disabilities had access to health services and most forms of transportation available, but there were no specific accommodations for

persons with disabilities.

Abuse and discrimination against persons with disabilities were widely believed to be common, and women with disabilities were particularly vulnerable to abuse. There were no reports of investigations or punishment by the government for violence and abuses against persons with disabilities, but societal norms may limit the reporting of such incidents, particularly against women and girls with disabilities.

An inclusive Education Resource Center, operating as part of the government's Disability-Inclusive Education Policy, and supported by a foreign development partner, provided children with disabilities a safe learning space. Children with disabilities reportedly had lower school attendance rates at all levels than other children. Some students with disabilities attended public primary schools both in Funafuti and in the outer islands. Parents decided which school a child with disabilities attended after consultation with an adviser from the *Fusi Alofa* (Hug in Love) Association, a disabilities-focused NGO.

## **Other Societal Violence or Discrimination**

Persons with HIV or AIDS faced some societal and employment discrimination. The government and NGOs cooperated to inform the public regarding HIV and AIDS and to counter discrimination.

## **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 law prohibits antiunion discrimination or requires reinstatement of workers fired for union activity.

In general, the government effectively enforced these laws. Employers who violated laws on freedom of association and the right to collective bargaining were

liable to a fine, a penalty that was commensurate with those under other laws involving denials of civil rights. 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 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 the government effectively enforced the law. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. Anyone who exacts, procures, or employs forced or compulsory labor is liable to up to 10 years' imprisonment. There were no reports of forced labor during the year.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations do not prohibit discrimination based on race, color, sex, religion, political opinion, national origin, age, disability, language, sexual orientation, gender identity, HIV or other communicable disease status, or social status, and individuals sometimes experienced discriminatory practices. In the wage economy, men held most higher-paying positions. Women faced employment discrimination, in part due to a lack of legal protection and in part due to their perceived subordinate social status. Nonetheless, women increasingly held senior positions in government, particularly in the health and education sectors. Few women could access credit to start businesses. Persons with disabilities faced discrimination in hiring and access to the workplace. Local agents of foreign companies that hired seafarers to work abroad barred persons with HIV or AIDS

from employment.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law allows the government to set a minimum wage, but the Department of Labor did not do so.

The law sets the workday at eight hours, and the Department of Labor may specify the days and hours of work for workers in various industries. Although the law provides for premium pay and overtime work, there are no established premium overtime rates or maximum hours of work. Violators are liable to a fine, a penalty that was commensurate with those for similar crimes, such as fraud.

**Occupational Safety and Health:** The law provides for rudimentary occupational safety and health (OSH) standards and requires employers to provide adequate potable water, basic sanitary facilities, and medical care. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in such situations. Violators of OSH laws are liable to a fine, a penalty that was commensurate with those for crimes like negligence.

**Wage, Hour, and OSH Enforcement:** The Department of Labor is responsible for enforcing wage and hour regulations, but it did not have sufficient capacity or inspectors to regularly conduct workplace inspections, although inspectors did follow up when the Labor Department received complaints. The government did not effectively enforce overtime laws. The government enforced OSH standards inconsistently. OSH inspections were conducted by the same inspectors under the same authorities as inspections for wage and hours.

**Informal Sector:** Approximately 75 percent of the working-age population worked in the informal and subsistence economy. The main types of subsistence activity included fishing; agricultural activities such as fruit and vegetable gardening and raising livestock; coconut tree sap collection; copra production; handicrafts; house building; and traditional food preservation. There was no system for reporting and publishing workplace injuries or deaths, and a lack of resources hampered inspections of informal workplaces.