

Tuvalu 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in Tuvalu during the year.

Significant human rights issues included criminalization of consensual same-sex sexual conduct between men, although the law was not enforced.

The government took credible steps to identify and punish officials who committed human rights abuses.

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, including extrajudicial killings, during the year.

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 prohibited such practices, and there were no credible reports government officials employed them.

Prison and Detention Center Conditions

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

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

Independent Monitoring: The government permitted monitoring by independent human rights observers. Representatives from Ekalesia Kelisiano Tuvalu (Congregational Christian Church of Tuvalu) visited twice a week, providing counseling for prisoners.

d. Arbitrary Arrest or Detention

The law prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The law permitted arrests without a warrant if a police officer witnessed the commission of an unlawful act or had a “reasonable suspicion” an offense was about to be committed. Police estimated the majority of arrests were without warrants. Police could hold a person arrested without a warrant for a maximum of 24 hours without a hearing before a magistrate. When a court issued an arrest warrant, the warrant stated the maximum permissible detention time before the court had to hold a hearing, which was 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 had to await trial at a semiannual session of the High Court. There was a functioning bail system. The people’s lawyer (public defender) could represent any suspect free of charge. 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 was located, traveled infrequently to the outer islands.

e. Denial of Fair Public Trial

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

Trial Procedures

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

Not applicable.

h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibited 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 provided 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 media members.

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

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content.

b. Freedoms of Peaceful Assembly and Association

Although the law provided for the freedoms of peaceful assembly and association, there were local restrictions on the freedom of peaceful assembly.

Freedom of Peaceful Assembly

The law provided for freedom of peaceful assembly; however, the

government allowed island chiefs to restrict assembly for public worship.

c. Freedom of Religion

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

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

The law provided 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 provided for granting asylum or refugee status, but the government had no established 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 provided 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

Abuses or Irregularities in Recent Elections: The 2019 parliamentary elections were widely reported to be fair and free of abuses and irregularities.

Participation of Women and Members of Marginalized or Vulnerable

Groups: No law limited participation of women or members of marginalized or vulnerable groups in the political process. Participation by women in politics was low, hindered largely by societal discrimination and traditional perceptions of women's roles as caregivers and managers of the family. Several women served in senior government positions. The 16-member parliament included one woman. There were no members of minority groups in parliament or the cabinet.

Section 4. Corruption in Government

The law provided criminal penalties for 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 serious government corruption.

Section 5. Governmental Posture Towards

International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights

Domestic human rights groups generally operated without government restriction, monitoring and investigating human rights conditions and cases, and published their findings on human rights matters. Government officials were somewhat cooperative and responsive to their views.

Government Human Rights Bodies: The Office of the Chief Ombudsman included a human rights unit to promote and protect human rights in the country, but it had not been operational since 2022 due to the delay in the appointment of a chief ombudsman following the resignation of the previous ombudsman.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Rape of women (not men) was a criminal offense punishable by a minimum sentence of five years' imprisonment. A perpetrator convicted of "indecent assault" on a man was "liable to imprisonment for seven years." The law recognized spousal rape. Domestic violence was a criminal offense punishable by a maximum five years' imprisonment, a fine, or both. Domestic violence could also be prosecuted

as assault, punishable by up to five years' imprisonment in cases involving actual bodily harm. 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 fear of reprisal. The Attorney General's Office, police, and nongovernmental organizations (NGOs) conducted nationwide awareness campaigns about domestic violence.

The police Domestic Violence Unit employed a "no-drop" evidence-based prosecution policy in cases of sexual and domestic violence against women and operated a 24-hour emergency telephone line for survivors. The law gave police explicit powers to intervene in violent circumstances, including the power to enter private property and order a person who committed an act of domestic violence to vacate the property, regardless of whether that individual had rights to that property, if another person at risk of further violence occupied it. The Women's Crisis Center provided counseling services, but the only shelter for abused women was often unavailable.

Discrimination: Certain legal provisions contributed to women's unequal status, for example in land inheritance and child custody matters. No law barred employment discrimination based on gender or required equal pay for equal work, and such discrimination occurred. Nonetheless, women increasingly held senior government positions in the health, law, and education sectors and headed several NGOs. Women seeking to start

businesses had limited access to credit.

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 reproductive health, counselling on family planning and conducted early screening cervical cancer and HIV testing with young mothers, expectant mothers, youths, and persons with disabilities in Funafuti and some outer islands. Public awareness programs provided greater opportunity to make informed decisions on reproductive and health-care questions.

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-care matters, limited the use of contraceptives. Limited reproductive health services were available in the outer islands and skilled health-care provider attendance during childbirth was available only at the main hospital in the capital, Funafuti. According to the *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 they did not participate in social activities, school, or work due to their menstruation. The government provided access to health care, including emergency contraception and postexposure prophylaxis, for survivors of sexual

violence. The government also provided financial support to NGOs that assisted survivors of sexual violence.

Systemic Racial or Ethnic Violence and Discrimination

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

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

Children

Child Abuse: There were no laws against child abuse. The government did not collect or publish data on child abuse; it stated there were no reports of child abuse during the year. Anecdotal evidence, however, indicated child abuse occurred. The law prohibited corporal punishment.

Child, Early, and Forced Marriage: The legal minimum age of marriage was 18, although the laws were not enforced. According to the *2019-2020 Multiple Indicator Cluster Survey*, 1.8 percent of women ages 20-24 were married before age 18. Stigma associated with teenage unwed pregnancy likely precipitated some early marriages.

Sexual Exploitation of Children: The age of consent for sexual relations was

15. Sexual relations with an underage girl was punishable by up to life imprisonment, depending on the survivor's age. The survivor's consent was irrelevant.

No law prohibited the use, procurement, or offering of boys from ages 15 through 17 for sex.

No provision of law pertained specifically to child pornography, although the penal code prohibited obscene publications in general. Although child trafficking was prohibited, the law prescribed 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 abroad.

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

Sex Characteristics

Criminalization: The law prohibited consensual same-sex conduct between men, with penalties of seven to 15 years' imprisonment. There were no reports of prosecutions under the law.

Violence and Harassment: There were no reports of violence against persons based on sexual orientation, gender identity or expression, or sex characteristics, but social stigma or intimidation might have inhibited lesbian, gay, bisexual, transgender, queer, intersex and other (LGBTQI+) persons from reporting violence, harassment, or discrimination.

Discrimination: The law did not prohibit discrimination by state or nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics. Moreover, the criminalization of same-sex sexual acts between men reinforced negative views towards all LGBTQI+ individuals that made them vulnerable to discrimination and abuse. The law did not recognize LGBTQI+ couples or their families and did not grant them rights equal to those of other persons. No laws specifically address bias-motivated crimes.

Availability of Legal Gender Recognition: Legal gender recognition was not available.

Involuntary or Coercive Medical or Psychological Practices: There were no known reports of involuntary or coercive medical practices targeting

LGBTQI+ individuals or surgeries performed on nonconsenting adult or child intersex persons.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

There were no restrictions on freedoms of expression, association, or peaceful assembly on those speaking out on LGBTQI+ affairs. The Akanda Association, an LGBTQI+ rights NGO, was active and worked with other NGOs, including the Tuvalu Family Health Association.

Persons with Disabilities

Persons with disabilities had limited access to education, employment, health services, public buildings, and transportation. There were no mandated building accessibility provisions for persons with disabilities.

Persons with disabilities had limited access to information and communications and to civic and community life. They were subject to discrimination in hiring and employment.

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 could limit the reporting of such incidents, particularly against women and girls with disabilities.

The inclusive Education Resource Center, operating as part of the

government's Disability-Inclusive Education Policy and supported by a foreign development partner, provided some children with disabilities access to education. Children with disabilities, however, 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 their 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 provided for the right of private-sector workers to form and join independent unions, bargain collectively, and conduct strikes. The law did not permit public-sector employees such as civil servants, teachers, and nurses to form and join unions. They could join professional associations that had the right to bargain collectively but not the right to strike. No law

prohibited antiunion discrimination or required 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; however, penalties were rarely applied. The law also provided 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 were 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

See the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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 (see section 6)

e. Acceptable Conditions of Work

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

The law set the workday at eight hours, and the Department of Labor could specify the days and hours of work for workers in various industries.

Although the law provided for premium pay and overtime work, there were no established premium overtime rates or maximum hours of work.

Violators were liable to a fine, a penalty that was commensurate with those for similar crimes, such as fraud.

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

negligence; however, penalties were rarely applied against violators.

Wage, Hour, and OSH Enforcement: The Department of Labor was responsible for enforcing wage and hour regulations, but did not have sufficient capacity or inspectors to regularly conduct workplace inspections, although inspectors did follow up when the Department of Labor 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.

Approximately 75 percent of the working-age population worked in the informal and subsistence economy, mainly in subsistence agriculture. There was no system for reporting and publishing workplace injuries or deaths, and a lack of resources hampered inspections of informal workplaces.