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U.S. Department of State

Tonga Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

TONGA

The Kingdom of Tonga comprises 169 small islands scattered over a wide area of the South Pacific. Most of the approximately 105,000 inhabitants are Polynesian. Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. It is a member of the Commonwealth of Nations. The judiciary is independent.

The security apparatus is composed of the Tonga Defense Services (TDS) and a police force. The 430-man TDS force is responsible to and controlled by the Minister of Defense.

The economy is based primarily on the cultivation of tropical and semitropical crops. An increasing demand for imported manufactured goods and products unavailable locally has led to a substantial trade deficit. This has been offset largely by remittances from Tongans employed abroad, overseas aid, and to a lesser degree tourism. Remittances via the formal banking system diminished, although informal transfers may bring overall remittances to their previous level.

The principal human rights abuse remains severe restrictions on the right of citizens to change their government. A relatively small group of commoners vocally challenges the Constitution, arguing for a more representative and accountable government. The Police Minister filed lawsuits against government critics to discourage dissent. Some women suffer from domestic violence, and discrimination within traditional society limits the opportunities available to women.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:**a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution forbids torture and inhuman or degrading punishment or other such treatment, and there were no reports of such practices. Prison conditions are basic, especially as regards food and sanitation, but in accordance with local living standards. Church representatives and family members are permitted to visit prisoners. No local nongovernmental organizations attempt human rights monitoring visits to prisons, and the permissibility of such visits has not arisen.

d. Arbitrary Arrest, Detention, or Exile

The Constitution proscribes arbitrary arrest or detention and provides for the right to judicial determination of the legality of arrest; these are observed in practice. There is no preventive detention, although there are no statutory limits to the length of time a suspect may be held prior to being charged. The law does not limit access by counsel and family members to detained persons. There is no forced exile, internal or external.

e. Denial of Fair Public Trial

The judiciary, whose top judges have been expatriates, is independent of the King and the executive branch.

The Court of Appeals, as the appellate court of last resort, is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason. In addition, the court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates' courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department.

The law provides for the right to a fair public trial, and the Government honors it in practice. A court may not summon anyone without providing the person a written indictment stating the offenses the person is accused of committing. Defendants are entitled to counsel, and lawyers have free access to defendants.

There were no reports of political prisoners in 1998. However, some observers allege that Parliament's conviction and imprisonment of a parliamentarian and two journalists for contempt in September 1996 were politically motivated.

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

By law and in practice, no one may enter or search the home of another or remove any item of property

unless in possession of a warrant issued by a magistrate. Neither the State nor political organizations intrude arbitrarily into a person's private life.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights.

Tonga has two weekly newspapers (one of which is government owned) and one privately owned national magazine. A Christian network owns the one television station, which has plans to expand from one to at least three channels. The Government owns one AM and one FM radio station. Three FM stations (one purely religious) are privately run. While there is generally little editorializing in the government-owned media, opposition opinion appears regularly alongside government statements and letters. A privately owned newspaper, Kele'a, openly criticizes the Government without interference. However, infringements on freedom of the press do occur. The Minister of Police, apparently to inhibit dissent from government views, continued to file civil suits in Magistrates Court against people who allegedly angered public servants. While such suits often are dismissed on appeal, they can be costly for the defendants. In July the Government refused entry to a New Zealand journalist who wished to cover the King's birthday celebration, because his reporting had displeased authorities in the past.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for peaceful assembly and association. There are no significant restrictions.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens are free to travel anywhere within the Kingdom and abroad. The law places no restrictions on repatriation.

The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person in recent memory has applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominate political life. They assert authority largely through control of substantial landholdings and their dominant numbers in Parliament. While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, the King sometimes permits "the system" to work its will without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which

makes major policy decisions. Currently, the Cabinet is made up of nine ministers and two governors; it includes both nobles and commoners, who serve at the King's pleasure.

The unicameral legislature, the Legislative Assembly, consists of the Cabinet, nine nobles elected by their peers, and nine people's representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles.

Cabinet members and nobles usually vote as a bloc; however, recent votes related to impeachment charges against a commoner member of the Cabinet demonstrated that nobles and people's representatives do have the capacity to override the Cabinet's wishes at times.

In recent years, a number of people both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability. Very few challenge retention of the monarchy; the King is greatly respected. A prodemocracy movement continues to exist, although it currently lacks formal structure due to differences of views among its leaders. All nine people's representatives advocate various degrees of democratic reform. Proposals for constitutional revision tend to center on the popular election of all parliamentarians, with the parliamentarians then selecting their speaker.

There are no female Members of Parliament, although there have been in the past.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no known barriers to the formation of local nongovernmental organizations (NGOs) that concern themselves with human rights. Some local NGOs include among their interests human rights problems, although none currently undertakes investigations of alleged violations. No outside organizations are known to have made requests to investigate alleged human rights violations, but some publicly criticized the Government's refusal to grant a New Zealand journalist a visa in 1998 (see Section 2.a.). Tonga is not a member of the United Nations; it does participate in some U.N. subsidiary organizations.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Social, cultural, and economic facilities are available to all citizens regardless of race or religion. However, members of the hereditary nobility have substantial advantages. These include control over most of the land and a generally privileged status. Nonetheless, it is possible for commoners to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

Women

Domestic violence is seldom publicized, but it is a problem. Incidents of wife beating are generally dealt with in traditional ways within families or by village elders. Such abuse is seldom reported to the police. Abused wives sometimes return to their families if mediation fails.

Tonga has a male-dominated society, and women generally occupy a subordinate role. For a woman to rise to a position of leadership, she usually needs to have the support of the nobility or to possess exceptional talent. The King's mother reigned for many years, and a royal princess is one of Tonga's most prominent businesspersons. Some female commoners hold senior leadership positions in business.

Some village women, with help from NGOs, are leading local development projects.

The Government has a women's unit in the Prime Minister's office. Although some NGOs initially viewed this unit with suspicion, it appears to be functioning cooperatively with them. Still, many young, educated women regard the unit as ineffective. A government-sponsored National Council of Women is making positive contributions.

Children

The Government is committed to children's human rights and welfare and provides commensurate funding for children's welfare within the context of the total resources available to the State. Child abuse, if it occurs, is rare and has not become a source of concern in a society where the extended family participates in child rearing.

People With Disabilities

No mandated provisions for accessibility to buildings and services for the disabled exist. There were no known complaints of discrimination in employment, education, or provision of other state services. The education of children with special needs has been a longstanding priority of the Queen.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to form unions under the 1964 Trade Union Act, but to date no unions have been formed, presumably because of the small size of the wage economy and the lack of a perceived need for unions. The lack of unions makes the question of the ability of unions to affiliate with international bodies moot; however, such a right is neither protected, prohibited, nor limited by the Government.

b. The Right to Organize and Bargain Collectively

Since no unions have been formed, collective bargaining is not practiced. There is no legislation permitting and protecting collective bargaining or the right to organize. Labor laws and regulations are enforced in all sectors of the economy, including in the two small export enhancement zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor including forced and bonded labor by children, and it is not practiced.

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor is not used in the wage economy, although there is no legislation prohibiting it. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

Education has been compulsory since 1882. Although it is sometimes criticized as being of poor quality, education is provided for all children through Form 6 (high school). Compliance rates are good.

e. Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industry, limit the workweek to 40 hours. The Ministry of Labor enforces laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in agriculture and on the outer islands is limited by isolation.

Industrial accidents are rare, as few industries exist that would expose workers to significant danger. Due to these factors, there little or no work has been done on industrial safety standards.

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