



## Tonga

### Country Reports on Human Rights Practices - [2007](#)

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The Kingdom of Tonga is a constitutional monarchy with a population of approximately 110,000. Political life is dominated by King Siaosi Tupou V, the nobility, and a few prominent commoners. The most recent election for "people's representative" seats in Parliament, held in 2005, was deemed generally free and fair. There were several nascent political parties. A state of emergency declared following a November 2006 riot in the capital of Nuku'alofa remained in effect, but its scope was significantly reduced by year's end. The civilian authorities generally maintained effective control of the security forces.

Citizens lacked the ability to change their government. In May a nongovernmental organization (NGO) released a report documenting cases of physical abuse of detainees by security forces in the weeks following the November 2006 riot. Five members of Parliament (MPs) were charged with sedition related to public speeches they made at political rallies in November 2006. The government at times restricted the freedom of the media to cover political topics. Government corruption was a problem, and discrimination against women continued.

#### **RESPECT FOR HUMAN RIGHTS**

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

Arbitrary or Unlawful Deprivation of Life

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

Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, but in May the Community Para-Legal Taskforce, a local NGO, issued a report concerning abuse by the Tonga Defense Services (TDS) and police of some persons arrested following rioting in Nuku'alofa in November 2006. The report documented and illustrated cases of physical abuse of some detainees while in the custody of the security forces. Although the government stated it would investigate the charges, it did not conduct a public inquiry. Both the police and the TDS reported conducting internal inquiries, but no results were made public.

Prison and Detention Center Conditions

Prison conditions generally met international standards.

The Tonga Red Cross (TRC) monitored prison conditions through quarterly visits to the main prison. The TRC reported that the problem of temporary overcrowding that resulted from the arrest of a large number of persons following the November 2006 riot was resolved; most of those arrested and initially detained were released on bail.

Church representatives and family members were permitted to visit prisoners.

Arbitrary Arrest or Detention

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

### Role of the Police and Security Apparatus

The security apparatus consists of the TDS and a police force. The minister of defense controls the TDS, which is responsible for external security and under the state of emergency shared domestic security duties with the police.

The minister of police and prisons directs the police force of approximately 470 persons. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. Reports of corruption and other public complaints are referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. In March a police officer accused of brutality was convicted and dismissed from the force. Entry-level police training included training on corruption and transparency.

Powers under the state of emergency were gradually reduced during the year and at year's end were limited to police and military powers to "maintain public order" on the main island of Tongatapu. Somewhat more stringent public order provisions applied to a "proclaimed area" covering most of the business and governmental district of Nuku'alofa.

### Arrest and Detention

The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice during the year. Under normal circumstances police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. Under the Emergency Powers Regulation (EPR) introduced in November 2006, this period was temporarily extended to 48 hours. In May the extension was dropped with the introduction of a new, revised EPR. In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. Indigent persons could obtain legal assistance from a donor-funded law center.

### Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The highest-ranking judges historically have been foreign nationals. Judges hold office "during good behavior" and otherwise cannot be dismissed during their terms.

The court system consists of the Court of Appeal, the Supreme Court (which has original jurisdiction over all major cases), the police magistrate's court, a general court, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The king's Privy Council presides over cases relating to disputes regarding titles of nobility and estate boundaries.

The TDS and the police force both have tribunals, which cannot try civilians.

### Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law applies to all citizens without exception. A court may not summon anyone without providing a written indictment stating the charges. Trials are public, and defendants have the option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. Lawyers have free access to defendants. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but a donor-funded law center provides free legal advice and representation in court. Local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Any violation of a human right provided for in the law can be addressed in the courts. There are no nonjudicial administrative remedies in such matters.

### Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, in the months following the November 2006 riot, police and TDS personnel were repeatedly accused of entering homes and occasionally seizing property without warrants in the course of investigations into looting.

## Section 2 Respect for Civil Liberties, Including:

### Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the government did not always respect these rights in practice. In January and February, five MPs were charged with sedition in relation to speeches they made at political rallies held just prior to the November 2006 riot. A court was scheduled to hear the cases in 2008.

In July a jury acquitted prodemocracy activist Sione Halafuka Ve'a, who had been charged with sedition for remarks he made at a political demonstration in November 2006.

There were no further developments in the 2005 case of former monopoly electric company employee Piveni Piukala, who was charged with illegally retrieving information from the company's computers after he publicly alleged excessively high salaries and other problems at the company. He remained free on bail and was residing outside the country at year's end.

The independent media were active and expressed a wide variety of views. In February TDS personnel, citing a legal prohibition on Sunday work for most businesses, instructed the staff of *Kele'a*, a newspaper owned by prodemocracy MP 'Akilisi Pohiva, to refrain from working on Sunday evenings. The editor and members of the prodemocracy movement interpreted this as intimidation by the TDS. The newspaper nevertheless continued to print articles characterized as "seditious" by the government. In March Tavake Fusimalohi, *Kele'a's* editor, was arrested and charged with sedition for publishing a weekly column that criticized the king; however, Fusimalohi died on December 3, before the case came to trial.

The Oceania Broadcasting Network, a television station operated by a prodemocracy activist, remained off the air during the year. The government ordered its shutdown in late 2006, ostensibly over a lease dispute.

Government-controlled media outlets were criticized for exercising self-censorship. In June, under government pressure, the Tonga Broadcasting Commission (TBC) imposed a ban on all reports on political topics and suspended coverage of parliamentary debates. TBC management stated it had received complaints from government ministers claiming bias in the TBC's Radio Tonga and TV Tonga reports. Despite TBC claims that the ban was officially lifted in July, restrictions remained effectively in place, with the TBC stating that, in light of political sensibilities since the riot, it refused to permit the airing of programs that might incite the population. Critics asserted that only prodemocracy material was banned, while progovernment material was freely permitted. In November the minister of the newly created Ministry of Information announced that the government was drawing up reporting guidelines for government-owned and TBC-controlled Radio Tonga and TV Tonga, ostensibly to assure balanced reporting. No guidelines were issued by year's end.

While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time, the national media carried comments, including some by prominent citizens, critical of government practices and policies.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure limited access to a certain extent, but there were Internet cafes available in the larger towns in all three of the country's main island groups.

### Academic Freedom and Cultural Events

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

### Freedom of Peaceful Assembly and Association

#### Freedom of Assembly

The constitution provides for freedom of assembly; however, through May 16, pursuant to the state of emergency, meetings of five or more persons were prohibited. Thereafter, the EPR was changed, and such gatherings were no longer explicitly prohibited. In practice police tolerated a peaceful demonstration that took place in October during an international conference, but a planned march into the capital's central district was prohibited.

In April and May, court hearings took place for 32 protesters charged with various offenses during a June 2006 protest march in Nuku'alofa. Most of the defendants were found guilty of obstructing police and were fined. Several defendants were acquitted.

Approximately 800 persons were arrested and more than 500 persons were charged with offenses relating to the November 2006 riot. Trials were ongoing during the year, and by year's end, 91 persons had been convicted and 15 acquitted.

#### Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

#### Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. However, the dominant Christian religion shows its influence in a constitutional provision that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sabbath day prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

TBC guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." Although the TBC allowed the Church of Jesus Christ of Latter-day Saints and the Baha'i Faith to broadcast their programs on TV Tonga and Radio Tonga, it prohibited discussion of their founders and the basic tenets of their faiths. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

#### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known resident Jewish community.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

#### Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and prior to the declaration of a state of emergency in November 2006, the government generally respected these rights in practice. Under the ongoing state of emergency, the government restricted free movement in and around the government buildings and central business district in the capital. In December 2006 the government lifted injunctions placed on three persons, out of a list of 81, whose movements were restricted by the TDS for their alleged involvement in the November riot. By March the restrictions on the remaining 78 also had been removed.

The law does not prohibit forced exile, but the government did not employ it in practice.

#### Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. The government provided protection against refoulement, the return of persons to a country where there is reason to believe they fear persecution. No persons were known to have applied for refugee status or temporary protection.

The government was not approached during the year by the Office of the UN High Commissioner for Refugees or other humanitarian organizations to assist with refugees or asylum seekers.

#### 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 system of government. The king and 33 hereditary nobles dominated government. The king appoints the prime minister. He also appoints and presides over the Privy Council (called the cabinet when the king or regent is not presiding), which makes major policy decisions. The council is composed of as many as 14 ministers and two regional governors; it includes nobles and commoners, all serving at the king's pleasure.

The unicameral Parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The king appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

Following the November 2006 riot, the king reaffirmed his support for political reforms. In August a tripartite committee of cabinet, nobles', and people's representatives issued a report to Parliament recommending major changes to the political system that would result in a sizable majority of people's representatives in Parliament, with Parliament choosing the prime minister from among its members. The prime minister would choose the cabinet, also from among the MPs. Before adjourning in October, Parliament endorsed the committee's report in general but put off implementation of recommended reforms until 2010.

#### Elections and Political Participation

Only citizens 21 years or older and resident in the country may vote. The 2005 elections for Parliament's nine people's representatives were deemed generally free and fair and resulted in a strong showing for prodemocracy candidates. Subsequent by-elections also resulted in the election of prodemocracy candidates.

Nobles and cabinet members associated with the royal family have traditionally dominated the Parliament and government. For several decades a democracy movement has been building, and since 2005 three proreform political parties have been registered.

There was one popularly elected woman in the 34-member Parliament. A woman may become queen, but the constitution forbids a woman to inherit hereditary noble titles or become a chief. There was one female government minister.

A single cabinet minister constituted the only minority participation in government.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption. The government generally implemented the law, but officials sometimes engaged in corrupt practices with impunity. In July Parliament enacted legislation establishing a commissioner charged with investigating official corruption.

There were some reports of government corruption during the year. Government preferences appeared to unfairly benefit businesses associated with members of the royal family. In August, during parliamentary debates, it was revealed that royalties due to the government from a business associated with a member of the royal family had gone unpaid for a number of years. Lawyers assigned to the case by the attorney general, working together with the Department of Communications, were still investigating at year's end.

There is no law requiring financial disclosure for public officials.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the government deemed the information sensitive.

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

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues. Government officials were somewhat cooperative and responsive to their views. Claims of mistreatment of detainees in the wake of the November 2006 riot led to ad hoc investigations by several domestic NGOs. There were no restrictions on operations by international human rights groups.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the government.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status.

#### Women

Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent but increasing, although there were no reliable statistics. Rape cases were investigated by the police and prosecuted under the penal code. There were seven rape convictions during the year.

Domestic violence against women seldom was publicized; however, according to local women's groups, it was very common. Domestic violence can be prosecuted under laws against physical assault, but in practice prosecutions were very rare. When abuse was reported to the police, victims were often encouraged to return to their homes. In August the police department established a Domestic Violence Unit. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hot line for women in trouble.

Under a Ministry of Health policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next of kin.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. There were reports of women and underage girls engaging in commercial sexual activities. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault. Sexual harassment sometimes occurred, but it was not a major problem.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land, but inheritance rights pass through the male heirs. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse. During the year there were no further developments regarding proposals to amend the land laws to allow women to inherit registered land allotments in the absence of a male heir.

The Office of Women within the Ministry of Education, Women, and Culture is responsible for facilitation of development projects for women. During the year the office assisted women's groups in setting up work programs.

Women who rose to positions of leadership often had links with the nobility. Some female commoners held senior leadership positions in business and government, including those of governor of the Reserve Bank, permanent representative to the UN, and ambassador to the People's Republic of China (PRC).

The National Center for Women and Children, an NGO, focused on domestic abuse and improving the economic and social conditions of women and offered counseling to women in crisis. It also operated a safehouse for women and children. Several religiously affiliated women's groups also advocated for women's legal rights.

#### Children

The government was committed to children's rights and welfare, and it provided some funding for children's welfare. Education is compulsory from ages six to 14. Education was available for all children through high school, and most children attended school. According to a UN Children's Fund report (based on 2000-2005 data), net primary school enrollment rates were 92 percent for boys and 89 percent for girls. Education was free at the primary level, but students were required to pay school fees at the secondary level.

The government provided free basic medical care to children, and boys and girls had equal access to this care.

There were some reports of child abuse. During the year there were seven convictions for indecent assault of a minor and one conviction for battery of a minor. A public health facility identified 14 underage girls engaged in commercial sexual activities during the year.

#### Trafficking in Persons

While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no confirmed reports that persons were trafficked to, from, or within the country. There were unsubstantiated reports of employers holding the passports of Philippine nationals working in Tonga to prevent them from traveling. There also were unconfirmed reports that some nationals of the PRC working legally and illegally in the country may have been coerced into prostitution or other forced labor. The government did not investigate these reports.

#### Persons with Disabilities

There are no mandated provisions for services for persons with disabilities. The TRC operated a school for children with disabilities and conducted occasional home visits. There were complaints of discrimination in employment, education, and provision of other government services.

In March the Ministry of Education began a pilot program to assimilate children with disabilities into primary schools together with other children. The queen mother ran a center providing accommodation and meals for adults with disabilities. There were no programs to ensure access to buildings for persons with disabilities. An NGO advocating on

behalf of persons with disabilities was very active.

There was no specific government agency with responsibility for protecting the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

According to the Ministry of Labor, Commerce, and Industries, ownership and operation of food retail stores in the country has been legally restricted to citizens since 1978. Despite this policy the retail sector in many towns was increasingly dominated by foreigners, particularly Chinese nationals. The Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy. There were reports of crime and societal discrimination targeted at members of the Chinese minority.

#### Other Societal Abuses and Discrimination

Sodomy is illegal, but there were no reports of prosecutions under this provision. Persons who engaged in openly homosexual behavior faced societal discrimination. There were no reports of discrimination against persons with HIV/AIDS.

#### Section 6 Worker Rights

##### The Right of Association

Workers gained the right to form unions under the 1964 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they have no formal bargaining rights under the act. The Public Servants Association (PSA) acted as a de facto union representing all government employees.

In July the acting PSA president was placed on leave from the Education Ministry for political activities in the workplace in violation of the civil service code of conduct. He had written a letter demanding the resignations of the Public Service Commission board for alleged bias against the PSA. In August the PSA's general secretary was dismissed from her position at the Department of Agriculture, also for allegedly breaching civil service code of conduct bans on political activity. The general secretary asserted her dismissal was politically motivated.

##### The Right to Organize and Bargain Collectively

The law permits collective bargaining, but there were no implementing regulations.

The Trade Unions Act provides workers with the right to strike, but implementing regulations were never formulated. There have been strikes but none took place during the year.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

##### Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred among citizens. There were a few unconfirmed reports that some foreign workers may have been coerced into prostitution or other forced labor.

##### Prohibition of Child Labor and Minimum Age for Employment

Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy. A public health facility identified 14 underage girls involved in commercial sexual activities during the year.

##### Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, 23 percent of 16 communities surveyed in 2005 earned less than \$14 (T\$29) per person per week, which did not provide a decent standard of living for a worker and family. After a lengthy 2005 public service workers' strike, members of the large civil service received salary increases of 60 to 80 percent implemented in two phases, the first in late 2005 and the second in mid-2006, backdated to July 2005.

Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

