



Tonga

Country Reports on Human Rights Practices - [2006](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 6, 2007

The Kingdom of Tonga is a constitutional monarchy with a population of approximately 110,000. Political life is dominated by the king, the nobility, and a few prominent commoners. In September King Taufa'ahau Tupou IV died and was succeeded by his eldest son, King Siaosi Tupou V. The most recent election for "people's representative" seats in Parliament, held in March 2005, was deemed generally free and fair. There were several nascent political parties. The civilian authorities generally maintained effective control of the security forces.

The country's human rights record remained deficient. Citizens lacked the ability to change their government. However, in March the king appointed a non-noble as prime minister, and in October a parliamentary national committee formed in 2005 to explore the possibility of expanding political rights issued a report recommending an all-elected parliament, with 17 "people's representatives" and nine nobles' representatives. There were allegations of police and defense force abuses of some persons arrested under a state of emergency decree following a major riot in the capital of Nuku'alofa on November 16, which occurred after initially peaceful political demonstrations turned violent. There was also severe, temporary detention center overcrowding as a result of the post-riot arrests. A member of Parliament (MP) was charged with sedition when exercising his right to free speech. 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:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that 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 law prohibits such practices; however, in December an employee of a local nongovernmental organization (NGO) issued a report alleging abuse by the Tonga Defense Services (TDS) and police of some of the persons arrested following rioting in Nuku'alofa on November 16 (see section 2.b.). The NGO's board later disavowed the report, citing differences with the author's methodology and conclusions and his failure to clear the report prior to release. The Tonga Evangelical Union also wrote a letter to the prime minister expressing concern over reports of abuses, including violence towards underage detainees. The government stated it would investigate the charges. There were also reports of gratuitous violence used during more routine arrests, detentions, and other encounters with the TDS and police.

Prison and Detention Center Conditions

Prison conditions generally met international standards. Unlike in 2005, there were no reports that prisoners were collectively punished after the misbehavior or escape of individual inmates.

Prior to the November 16 riot, no NGOs attempted to monitor prison or detention center conditions. However, following the arrests of more than 900 riot suspects and allegations of overcrowding and mistreatment of detainees, in early December the Tonga Red Cross visited the Nuku'alofa prison and local police jails where the suspects were held. The Red Cross reported overcrowding and unhygienic conditions in the detention facilities.

Also in December a report issued by an employee of a local NGO, later disavowed by the NGO, alleged inhumane conditions for pretrial detainees following the large number of arrests through year's end in connection with the riot. According to the report the main detention center--the Nuku'alofa police station--had seven cells designed to hold up to 16 persons each, but at times there were up to four times that many detained in a cell. The report also noted detainee complaints of inadequate food, toilets, and washing facilities. There were allegations that some detainees were left handcuffed for several days. Some juveniles at the facility reportedly were held together with adults.

Church representatives and family members were permitted to visit prisoners.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. Human rights lawyers claimed that the arrests of suspected November 16 rioters were illegal. They argued that special arrest powers granted under the post-riot state of emergency decree could only apply prospectively, not retroactively to participation in the rioting.

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 force, which is responsible for external security. The police are normally responsible for internal security, but under the state of emergency declared following the November riot, the TDS also 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 were referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry level police training included training on corruption and transparency.

The police force was unable to respond adequately to the large-scale rioting on November 16 (see section 2.c.). Following the riot the government declared a state of emergency and deployed the TDS to assist the police in maintaining internal security and in locating and arresting persons suspected of participating in the violence. The state of emergency was still in effect at year's end.

Arrest and Detention

The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice prior to the state of emergency declaration. 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 state of emergency the period can extend to 48 hours. Following the November 16 riot in Nuku'alofa, some detainees were held for several days without seeing a magistrate.

In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. However, some persons detained after the November rioting reportedly were not allowed to contact an attorney or family members.

Amnesty

The king has the power to grant amnesty, but unlike in 2005, he did not use it during the year.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The judiciary tended to provide citizens with a fair and efficient judicial process. 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, a TDS court martial, a court tribunal for the police force, 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 over titles of nobility and estate boundaries.

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 local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

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

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.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, under the state of emergency, police and TDS personnel entered homes without search warrants and searched for stolen goods and suspects in the weeks following the November 16 riot.

Section 2 Respect for Civil Liberties, Including:

a. 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 May it took legal action against a prodemocracy MP for veiled criticism of the king and in November it forced the closure of a private television broadcaster critical of government.

Individuals generally were free to criticize the government without reprisal. However, in May leading prodemocracy MP Akilisi Pohiva was charged with sedition after his organization displayed banners quoting biblical scripture in a public park. The government interpreted the banners as a criticism of King Taufa'ahau Tupou IV. Members of the prodemocracy movement saw this charge as an attempt to intimidate them. The government later dropped the charges.

In March 2005 Piveni Piukala, a former employee of the monopoly power company partially owned by King Siaosi Tupou V, made public allegations of excessively high salaries and other problems within the company. In June 2005 he was arrested for allegedly having illegally retrieved information from the company's computers. At year's end he remained free on bail awaiting trial.

The independent media were active and expressed a wide variety of views, generally without restriction. However, the number of local independent media outlets was limited.

The Overseas Broadcasting Network (OBN), one of only two private television stations in the country, provided generous airtime to prodemocracy leaders in the weeks prior to the November 16 riot. Days before November 16, the government prevented the station from broadcasting. The government alleged that OBN did not have a lease on its station land or a valid broadcast license. Both issues had been in litigation. Prodemocracy activists believed that OBN was shut down to stop political speech critical of government.

Government controlled media outlets were criticized for exercising self censorship. 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. Under Tonga Broadcasting Commission (TBC) guidelines, religious programming on Radio Tonga must be confined "within the limits of the mainstream Christian tradition" (see section 2.c.).

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic 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 island groups.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

On June 1, approximately 1,000 civil servants and prodemocracy activists marched through the capital and presented a petition to the royal family demanding immediate political reforms. The government permitted the march, but police arrested 32 participants for allegedly refusing to comply with police instructions. Two of the accused were found guilty of obstructing a government servant and disorderly behavior in public. The convictions were upheld on appeal. The remaining 30 individuals were released pending a hearing, which had not yet been held at year's end.

On November 16, large gatherings of proreform and antireform demonstrators in downtown Nuku'alofa verbally confronted each other and urged Parliament to back their respective views (see section 3). After Parliament did not meet to vote on a particular reform plan, violence broke out. Several thousand rioters roamed through the city's downtown business district. Numerous buildings were attacked, looted, and burned. Government buildings, businesses associated with the royal family and government officials, and Chinese- and Indian-owned shops were particular targets. Seven persons died after apparently becoming trapped in a burning building. Since the building's owners reported that all their employees were accounted for, the authorities believed some or all of the victims may have been participants in the riot, but this

was not confirmed by year's end. In November and December the authorities arrested over 900 persons on charges connected to the riot; their cases were pending at year's end. An employee of a local NGO and the head of the Tonga Evangelical Union alleged that TDS and police officers mistreated some of those arrested; the government denied the charges (see section 1.c.).

The law permits political parties to register under an "incorporated societies" statute. Since 2002 four parties have been registered (see section 3).

c. 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." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion or refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha'i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities. 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

The relationships among religions generally were amicable. There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known resident Jewish community.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

The law provides for these rights, and prior to the declaration of a state of emergency in November, the government generally respected them in practice. Under the state of emergency the government restricted free movement in and around the government and central business district of the capital. In December the magistrate's court issued a restraining order under the country's bail act that prohibited 81 named suspects in the rioting from departing the country.

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. 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 political life. They asserted 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 Parliament's endorsement, at times the king permitted Parliament to operate without his guidance. 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 cabinet is composed of as many as 13 ministers and two governors; it includes nobles and commoners, all serving at the king's pleasure. In March the king appointed a commoner as prime minister, the first such appointment since the late 1800s. This followed a move in 2005 in which the current prime minister and another of the nine elected "people's representatives" were appointed to the cabinet--the first time elected "people's representatives" served as cabinet ministers.

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.

Elections and Political Participation

Only citizens 21 years or older and resident in the country may vote. March 2005 elections for the Parliament's nine "people's representatives" were deemed to be 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 there has been a building democracy movement and since 2005 three proreform political parties have been registered.

Prodemocracy groups staged demonstrations in September 2005 and in June and presented petitions to the king's representative that called for constitutional changes, including a popularly elected parliament. The king did not specifically respond to these petitions. In October 2005 Parliament commissioned the National Committee on Political Reform (NCPR) to ask citizens around the nation and abroad for recommendations about necessary political changes. The committee met with groups of citizens throughout the country and expatriate groups in New Zealand, Australia, and the United States. In late August the committee presented a report of its findings to the king, and on October 3, it presented its report to Parliament. The report recommended an elected parliament, with an increase from nine to 17 in the number of MPs elected by the general public; the 33 nobles would continue to elect nine MPs from among their number. The prime minister would be selected by the king from and would select cabinet members from among the 26 elected MPs. In response to the report the cabinet suggested the formation of a tripartite committee to review the NCPR's recommendations as well as an alternative proposal for more limited reforms made by the prime minister.

On November 16, citing security concerns due to proreform and antireform demonstrations in front of Parliament House, the Parliament did not meet to vote and thus took no action on reform recommendations. The large proreform demonstration subsequently degenerated into a group of several thousand rioters who attacked, looted and burned numerous buildings in the central business district (see Section 2.b.). In a last-minute meeting with prodemocracy leaders aimed at calming the crowds outside his office, the prime minister agreed to support a reform plan for a 30-member parliament with 21 representatives elected by the general populace and nine representatives elected by the nobles, to be implemented beginning with elections in January 2008. The agreement came too late to head off the riot. Under the constitution any agreement on reforms would have to be passed by Parliament and approved by the king before it could go into effect, and Parliament took no further action on reform proposals by year's end. In a speech on November 22 to close Parliament, the king affirmed that political reform should continue and requested that all political factions work to negotiate terms of a compromise reform plan before the next opening of Parliament in May 2007.

There was one woman in the 34-member Parliament. A woman may become queen, but the constitution forbids a woman to inherit other noble titles or become a chief. There was one female government minister. Women held several other significant government posts, including that of ambassador and permanent representative to the UN.

There was no minority participation in government.

Government Corruption and Transparency

There were reports of government corruption during the year. Officials working in the main port reportedly took bribes in exchange for not charging the full amount of port and duty tax. In January the speaker of Parliament was convicted of evading customs duties and bribery of a customs officer and stripped of his position as well as his chiefly rank and title. He also was fined \$9,780 (T\$20,000).

In addition government preferences appeared to benefit unfairly businesses associated with members of the royal family.

At year's end the government was considering a controversial measure that would close down a number of bonded warehouses at the port in an effort to fight corruption.

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 riot led to ad hoc investigations by several domestic NGOs (see section 1.c.). There were no restrictions on operations by international human rights groups. After the post-riot allegations of mistreatment of detainees, two UN agencies requested information from the government and asked to visit the country to conduct further investigations. These requests were pending at year's end.

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

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. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hot line for women in trouble.

Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent, although there were no reliable statistics. There was one conviction for indecent assault on a minor during the year.

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. During the year there was an increase in prostitution for men from foreign fishing vessels, especially among women under the age of 18. 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. In August the cabinet asked the Ministry of Lands to consider amendments to the country's land laws to allow women to inherit registered land allotments in the absence of a male heir. The inheritance would then continue to the woman's first male descendant. The proposal was a subject of considerable national debate during the year; it was still under consideration by the ministry at year's end.

The Office of Women within the Prime Minister's Office 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 usually had links with the nobility. Some female commoners held senior leadership positions in business.

The nongovernmental Center for Women and Children focused on domestic abuse and improving the economic and social conditions of women and offered counseling to women in crisis. 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 almost all children attended school. 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.

There were some reports of child abuse. There was one conviction for indecent assault on a minor (see section 5, Women).

There were reports that workers on foreign fishing vessels solicited underage girls for prostitution (see section 5, Women).

Trafficking in Persons

While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

There are no mandated provisions for services for persons with disabilities. The Tonga Red Cross Society 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. The queen ran a center providing accommodation and meals for adults with disabilities. There were no programs to ensure access to buildings for persons with disabilities.

There were no restrictions on the right of persons with disabilities to vote or participate in civic affairs. 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, 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 has become 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. Chinese- and Indian-owned shops were among the buildings targeted by rioters in Nuku'alofa on November 16 (see section 2.b.).

Other Societal Abuses and Discrimination

Persons who engaged in openly homosexual behavior faced societal discrimination.

Section 6 Worker Rights

a. 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 had no formal bargaining rights under the act. The Public Servants Association acted as a de facto union representing all government employees during the six week, nationwide civil servants' strike for a wage increase in 2005.

b. The Right to Organize and Bargain Collectively

The law permits collective bargaining, but there were no implementing regulations. In 2005 the government and public sector employees engaged in collective bargaining to resolve a strike by civil servants for higher wages. The government ultimately granted a wage increase.

The Trade Unions Act provides workers with the right to strike, but implementing regulations were never formulated. There were no strikes during the year.

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

c. 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. In March three Bangladeshi nationals alleged that after they came to the country in August 2005 to work for a local business they were obliged to work long hours and were not paid their promised salaries. One of the men alleged that the company chairman's wife assaulted him after he contacted a lawyer for assistance. The company denied the charges and claimed that the men's salaries had been sent directly to their families in Bangladesh. At year's end the assault charge was still pending, but the plaintiffs were not actively pursuing the case.

d. 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.

There were reports of underage girls involved in prostitution (see section 5).

e. Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, in 2005, 23 percent of 16 communities surveyed earned less than \$14 (T\$29) per person per week, which did not provide a decent standard of living for a worker and family. 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.