



## U.S. DEPARTMENT of STATE

### Tuvalu

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

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Tuvalu is a parliamentary democracy and British Commonwealth member with a population of approximately 11,000. In August citizens elected a 15-member unicameral parliament in generally free and fair elections. There were no formal political parties. Following the elections a loose coalition of eight members of Parliament formed a new government and selected Apisai Ielemia as prime minister. The civilian authorities generally maintained effective control of the police, the only security force.

The government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. However, there were a few areas of concern. Nongovernmental organizations (NGOs) and members of the public alleged that certain members of government were corrupt. Traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women.

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

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringement of customary rules, which can be at odds with the national law. However, during the year there were no reports of such corporal punishment.

##### Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by local church representatives. At least one independent international human rights observer also visited prison facilities during the year.

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

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

##### Role of the Police and Security Apparatus

The Office of the Prime Minister oversees the country's only security force, the 73-member national police service. Most police were stationed on Funafuti Island, with one regular and one auxiliary officer serving on each of the other islands. The police generally were regarded as professional and effective, although women's rights advocates criticized them for failing to take the issue of domestic violence seriously enough.

Senior officers investigate allegations of police abuse on a case-by-case basis, and the police commissioner reviews any proposed punishment. Corruption and impunity were not significant problems.

## Arrest and Detention

The constitution and law permit arrests without warrants if a police officer witnesses the commission of an unlawful act or has "reasonable suspicion" that an offense is about to be committed. Police estimated that approximately 80 percent of arrests were of this type. The police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes occurred (see section 1.e.). Detainees had prompt access to family members and to the people's lawyer (public defender); the country had no attorneys in private practice.

### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

There is a two-tier judicial system. Higher courts include the High Court, the Court of Appeal, and the Sovereign in Council (Privy Council) in the United Kingdom. Lower courts consist of senior and resident magistrates, the island courts, and the land court. A nonresident expatriate chief justice appointed by the governor general presides over the High Court, which generally sits twice a year.

## Trial Procedures

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

Judges conduct trials and render verdicts; there are no juries. The accused must be informed of the nature of the offenses with which they are charged and provided the time and facilities required to prepare a defense. The public defender expressed concern that on occasion bureaucratic delays resulted in several months passing before an accused was informed of the charges. The law provides for a presumption of innocence and the right to confront witnesses, present evidence, and appeal convictions. Procedural safeguards are based on British common law. The services of the independent public defender are available to all citizens without charge.

## 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.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, but the government occasionally limited these rights in practice.

Citizens were free to criticize the government publicly or privately without reprisal, and there were no reports that the government sought to impede such criticism.

There were no private, independent media. The Tuvalu Media Corporation (TMC), a public corporation, controlled the country's sole radio station and a monthly newsletter. Local news, information, and music were broadcast five and a half hours per day. The remaining radio programming consisted of rebroadcasts of BBC programs. There was no television. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal. Following previous criticism of government influence and self-censorship at the TMC, human rights activists reported that the TMC's limited coverage of political and human rights issues, including coverage critical of the government, increased somewhat during the year. Following his August election new Prime Minister Apisai Ielemia called for a freer media, and after some initial differences regarding their relationship with the new government, the media reported less government interference.

## 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. However, the relative lack of telecommunications infrastructure, especially beyond the capital island of Funafuti, and relatively high costs restricted public access to and use of the Internet.

### 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 and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the High Court has held that traditional village authorities may restrict this right in certain circumstances.

The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs. The law requires churches to register, and they must have a minimum of 50 members to do so.

In December 2005 the Tuvalu Brethren Church appealed an October 2005 ruling by the High Court that the constitution permits local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores. In May 2005 the Brethren Church had filed a complaint against the traditional island council of Nanumaga after the council banned the introduction of new religions to that island and ordered church members to stop further proselytizing.

In April the Nanumaga council passed a further resolution banning all new churches and threatening local council workers with dismissal if they worshipped with the Brethren Church. In June the council dismissed without proper notice five council workers who were Brethren Church members. At year's end the Court of Appeal had not yet met to consider the case.

In January the council of elders on Funafuti Island issued a resolution prohibiting the establishment or practice of "any new religion" not already established on the island and specifically prohibiting the construction of a Brethren church. In June the High Court issued a temporary injunction prohibiting any actions against the Brethren Church and its missionary work on Funafuti. The court briefly considered the case at its October session but then adjourned until 2007.

### Societal Abuses and Discrimination

There was a degree of societal intolerance toward religions other than established Christian denominations, particularly on the outer islands. There was no known Jewish community, and there were no reports of anti-Semitic acts.

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 constitution and law provide for these rights, and the government generally respected them in practice.

The constitution prohibits forced exile, and the government did not practice it.

### Protection of Refugees

The law provides 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, but the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. The government maintained its general cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, but the issue of assisting refugees and asylum seekers did not arise during the year.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

### Elections and Political Participation

Citizens freely and directly elect a 15-member unicameral parliament with a normal term of four years. Each of the country's eight main islands is administered by a six-person council, also elected by universal suffrage to four-year terms. The minimum voting age is 18 years.

The most recent general elections, held in August, were generally free and fair. An eight-member majority of the newly elected Parliament selected Apisai Ielemia, a former opposition parliamentarian, as prime minister, replacing Maatia Toafa.

There were no formal political parties; however, Parliament has tended to divide between an ad hoc faction with at least the necessary eight votes to form a government and an informal opposition faction.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no female members of Parliament or cabinet ministers. Two women ran for election to Parliament in August but both lost.

There were no members of minorities in the legislature or the cabinet.

#### Government Corruption and Transparency

Laws against corruption are weak. There was a widespread public perception that the government lacked transparency and accountability, that public funds sometimes were mismanaged, and that government officials benefited unfairly from their positions, particularly in regard to overseas travel and related payments and benefits. The electoral defeat of the previous government in August was attributed in part to the introduction of new, increased travel benefits for government officials at a time of economic hardship. As one of its first acts, the newly elected government banned overseas travel by government officials other than in exceptional cases.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing government oversight, was underfunded and lacked serious parliamentary support. Consequently it had inadequate staff and resources.

There is no law providing for public access to government information. In practice the government was only somewhat cooperative in responding to individual requests for such information.

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

There were no local NGOs concerned entirely with human rights, although there were no known barriers to their establishment. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times has been critical of the government, nonetheless was supported by the government, which frequently sought its advice. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. However, opportunities to publicize such information locally were severely limited due to the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

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

The law prohibits discrimination on the basis of race, color, and place of origin, and the government generally enforced these prohibitions. The Tuvalu National Council of Women has urged the government to amend the law to specifically prohibit discrimination on the basis of gender, but no action was taken on this proposal during the year.

#### Women

Reports of violence against women were rare. Women's rights observers reported, however, that it was not possible to estimate accurately the incidence of domestic violence, due to a lack of data. They criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. The law does not address domestic violence specifically. Acts of domestic violence are prosecuted under the assault provisions of the penal code. The maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, it is five years. Domestic violence was not a source of broad societal debate. However, the Women's Department of the Ministry of Home Affairs sponsored a well-received national radio discussion on violence against women, in which the police encouraged women to report domestic violence. The police practiced a "no drop" policy under which they cannot drop charges in cases of domestic violence. There were no shelters or hot lines for abused women. Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense.

Prostitution and sex tourism are illegal and were not problems. The law does not prohibit sexual harassment specifically but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

Although the constitution provides that its bill of rights provisions apply to all regardless of "race, place of origin, political opinions, color, religious beliefs or lack of religious beliefs, or sex," its provision on freedom from discrimination omits a specific reference to discrimination based on gender. Women's rights advocates have cited this contradiction as denying women full constitutional rights and freedoms. In January 2005, as part of its decision in a child custody case, the High Court stated that the omission of gender as a ground of discrimination in the constitution was deliberate and there is no constitutional protection against gender discrimination. The court also stated that although the country ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the lack of implementing legislation meant that CEDAW has no effect on the treatment of women under national law.

The law generally treats men and women equally, but there remained some areas in which the law contributed to an unequal status for women. For example, the land inheritance rights of the Tuvalu Lands Code are based in part on customary practices. If survivors cannot agree on the settlement of an estate, the law specifically provides for sons to inherit a greater share of property than daughters, although the law allows appeal of such property distributions. In addition the Native Lands Ordinance states that after the age of two any illegitimate child,

if accepted by the father, shall reside with him or his relations.

In practice women held a subordinate societal position, constrained both by law in some areas and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors and were more active politically. In the wage economy, men held most higher-paying positions, while women held the clear majority of lower-paying clerical and retail positions.

#### Children

Government funding for children's welfare was reasonable within the context of its total available resources. Education was free, compulsory, and universal for children through age 13. Primary school enrollment rates were 87 percent for boys and 88 percent for girls, according to the Asian Development Bank. However, only about one-third of secondary-school-age children (ages 15 to 19) attended school. The attendance rate for girls at the secondary school level was approximately 10 percent higher than that for boys and approximately 40 percent higher in the last two years of secondary school. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. The government provided free medical care for children through age 18.

The government did not compile child abuse statistics, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that child abuse occurred. Corporal punishment, in the form of strokes of a cane or paddle, was common in schools.

#### Trafficking in Persons

The law prohibits procurement of persons within and across borders for purposes of prostitution. It does not mention or prohibit trafficking specifically, but there were no reports that persons were trafficked to, from, or within the country.

#### Persons with Disabilities

Neither the constitution nor the law prohibits discrimination on the basis of physical or mental disability. There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services, nor were there restrictions on the right of persons with disabilities to vote or participate in civic affairs. However, supplementary state services to address the special needs of persons with disabilities were very limited. There are no mandated accessibility provisions for persons with disabilities.

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

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,100 members, who worked on foreign merchant vessels.

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

The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

The law provides for the right to strike, but no strike has ever taken place.

There are no 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.

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

The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work

The minimum wage, set by the government, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was \$99 (A\$130), regardless of sex and age. In most cases the private sector adopted the same minimum wage rate.

The Ministry of Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. The majority of workers were outside the wage economy, which was primarily on the main island.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.