

Criminalisation of Homosexuality

Updated 25 October 2015

 Tuvalu		
<p>National Law:</p> <p><i>Penal Code, Chapter 10.20, Revised Edition, 2008¹</i></p> <ul style="list-style-type: none"> - S153: Unnatural Offences² - S154: Attempts to Commit Unnatural Offences and Indecent Assault³ - S155: Indecent Practice Between Males⁴ 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 14 years' imprisonment - 7 years' imprisonment - 5 years' imprisonment 	<p><u>Treaty Ratification</u></p> <p>CEDAW</p> <p>CRC</p>
<p>The law is applicable only to men.</p>		
<p>Enforcement</p>	<ul style="list-style-type: none"> - 2014: The 2014 US Human Rights Country Report documented that there have been no recent prosecutions under the country's anti-gay legal provisions.⁵ 	
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - 5 August 2015: The United Nations launched a Pacific campaign against homophobia and transphobia.⁶ The initiative is a spin-off of the global United Nations Free & Equal Campaign led by the UN Human Rights Office. The launch event was attended by government representatives from Tuvalu. - July 2013: During Tuvalu's 2nd Cycle UPR, the Attorney General explained that Tuvalu was open to discussions surrounding sexual orientation and legislative changes.⁷ 	
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - 2014: The 2014 US Country Report found no instances of persecution or discrimination on the grounds of sexual orientation. The report does, however, add that "<i>social stigma or intimidation</i>" may lead to underreporting.⁸ 	
<p>Legislative News</p>	<ul style="list-style-type: none"> - 2013: (UPR) Tuvalu rejected recommendation to repeal buggery and gross indecency provisions.⁹ However, the Head of the Delegation, Ms. Eselealofa Apinelu, the Attorney General, stated that '<i>people with different sexual orientation did not suffer social discrimination but the question of legal protection</i> 	

	<p><i>in the law was controversial and would need to be carefully considered. Tuvalu was open to discussion.'</i>¹⁰</p> <ul style="list-style-type: none"> - 2011: Tuvalu signed the 2011 Human Rights Council Joint Statement (to end acts of violence based on Sexual Orientation and Gender Identity). - (UPR) Tuvalu rejected recommendations for the decriminalisation of consensual same-sex sexual activity between adults.¹¹
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¹ The law is : http://www.unodc.org/res/cld/document/tuv/1965/penal_code_html/Tuvalu_PenalCode.pdf

² *Penal Code (revised edition 2008) Chapter 10.20, s.153: 'Any person who - (a) commits buggery with another person or with an animal; or (b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for 14 years.'*

³ *Penal Code (revised edition 2008) Chapter 10.20, s.154: 'Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years.'*

⁴ *Penal Code (revised edition 2008) Chapter 10.20, s.155: 'Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years.'*

⁵ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Tuvalu* (US Department of State 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236486>> accessed on 6 August 2015

⁶ United Nations Office of the High Commissioner for Human Rights, *United Nations launches Pacific campaign against homophobia and transphobia* (6 August 2015)

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16298&LangID=E>> accessed on 25 September 2015

⁷ UNHRC, *Report of the Working Group on the Universal Periodic Review* (5 July 2013) UN Doc A/HRC/24/8, para. 17

⁸ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Tuvalu* (US Department of State 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236486>> accessed on 6 August 2015

⁹ UNHRC, *Report of the Working Group on the Universal Periodic Review* (5 July 2013) UN Doc A/HRC/24/8

¹⁰ UNHRC, *Report of the Working Group on the Universal Periodic Review* (5 July 2013) UN Doc A/HRC/24/8, para. 17

¹¹ UNHRC, *Report of the Working Group on the Universal Periodic Review*, A/HRC/10/84, para. 69 (9 January 2009) <http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TV/A_HRC_10_84_Tuvalu_E.pdf> accessed on 25 September 2015