

Gender and
Statelessness



Tuvalu

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

A child born in Tuvalu is a citizen of Tuvalu by birth, subject to certain exceptions.¹ These exceptions include that neither parent was a citizen of Tuvalu; and the father of the child had the privileges and immunities of an envoy to Tuvalu from a country with which Tuvalu had diplomatic relations.²

Another exception is where the father is a citizen of a country with which Tuvalu was at war; and the birth occurred in a place within Tuvalu occupied by that country.³ Where an exception applies, the child is not automatically a citizen by birth.

A reference to father in the two exceptions is to be construed as a reference to the mother, where the child is born out of wedlock.⁴

Children born outside of the country

A child born outside of Tuvalu is a citizen of Tuvalu by birth, if on the date of birth either parent was a citizen of Tuvalu.⁵

ADOPTED CHILDREN

A person who is not a citizen of Tuvalu by operation of law may apply to be registered as a citizen of Tuvalu if they have been adopted by a person who is a citizen of Tuvalu.⁶ 'Adopted' is defined to mean adoption by registration in a Native Lands Court in accordance with the customary law of Tuvalu or adopted as dependent under the law of any other country.⁷

FOUNDLINGS

A founding discovered at any time in Tuvalu shall, in the absence of proof to the contrary, be considered to have been born in Tuvalu.⁸

REGISTRATION OF THE BIRTH OF A CHILD

Every child born in Tuvalu is required to be registered by the registrar for the district in which the child was born.⁹ It is the duty of the father and mother of the child, or in their absence, such other qualified informant, to provide the registrar with the required information within 10 days of the date of birth.¹⁰

¹ *Constitution of Tuvalu 1986* s 45 ('*Constitution*').

² *Ibid* s 45(3).

³ *Ibid* s 45(4).

⁴ *Ibid* s 45(5).

⁵ *Ibid* s 45(2).

⁶ *Citizenship Act 1979* s 5(1)(d) ('*Citizenship Act*').

⁷ *Ibid* s 1, definition of 'adopted'.

⁸ *Constitution* (n 1) s 43(2).

⁹ *Births, Deaths and Marriages Registration Act* s 9(1).

¹⁰ *Ibid* s 10.

LOSS AND RENUNCIATION OF CITIZENSHIP

A citizen of Tuvalu of full age and capacity may renounce their Tuvalu citizenship by declaration.¹¹ This may not occur unless the person already holds some other nationality or citizenship; or the renunciation is for the purpose of obtaining some other nationality or citizenship.¹²

A person may be deprived of Tuvalu citizenship obtained by registration or naturalisation, where it is found by the court that their citizenship was obtained by false material, or false or wilful concealment of a material fact.¹³

NATURALISATION FOR SPOUSE OF CITIZEN

A person who marries a person who is or becomes a citizen of Tuvalu, is entitled to become a registered citizen of Tuvalu by making an application as prescribed by law.¹⁴

A person may also become a citizen by naturalisation, subject to certain requirements.¹⁵ These include that the person has: lived in Tuvalu seven years immediately preceding the application; intends to make Tuvalu their permanent home; has personal assets to the value of at least \$250,000; is of good character; and is not suffering from any permanent communicable disease.¹⁶

DUAL NATIONALITY

Dual nationality is permitted in Tuvalu. Pursuant to the amendments made by the *Citizenship (Amendment) Act* in 2009, a person is no longer required to renounce

foreign citizenship in order to become a naturalised citizen of Tuvalu.¹⁷

GENDER EQUALITY ACHIEVED

Tuvalu has achieved gender equality with respect to citizenship based on the laws of its *Constitution of Tuvalu* since at least 1990. It is unclear what the position was prior to 1990 due to difficulty obtaining a copy of the *Constitution* prior to this date.

It is to be noted that the *Constitution* and *Citizenship Act* both use only the pronoun “he” throughout.

GENDER AND STATELESSNESS RISKS

The *Constitution* and *Citizenship Act* of Tuvalu do not discriminate on the basis of gender with respect to the conferral of citizenship. The legislation also mitigates risk of statelessness through provisions as to citizenship for adopted children and foundlings. The 2009 amendment which provides for dual citizenship for naturalised citizens also assists by allowing children to obtain the nationality of both parents.

UNHCR Representation in Canberra

Note: This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.

¹¹ *Citizenship Act* (n 6) s 8(1).

¹² *Ibid* s 8(2).

¹³ *Ibid* s 7(5).

¹⁴ *Constitution* (n 1) s 46; *Citizenship Act* s 5(1)(b).

¹⁵ *Citizenship Act* (n 6) s 6.

¹⁶ *Citizenship Act* (n 6) s 6(4); *Citizenship (Amendment) Act 2009* s 2; *Citizenship (Amendment) Act 2015* s 3.

¹⁷ *Citizenship (Amendment) Act 2009* s 2(d).