

# MARSHALL ISLANDS 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President Christopher Loeak. The Nitijela, the country's parliament, elected President Loeak in January 2012, following free and fair multiparty elections in November 2011. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

Human rights problems included sparse prison conditions, government corruption, violence toward women, child abuse, sex trafficking, and lack of legal provisions protecting worker rights.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government.

### **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, and there were no reports that government officials employed them.

### **Prison and Detention Center Conditions**

Prison conditions did not meet international standards.

Physical Conditions: As of September the country's only national prison, on Majuro Atoll, which was built to hold up to 36 persons, held 36 inmates – all male

adults. Two of these inmates were awaiting trial, and the rest were convicted prisoners.

No specialized prison facilities existed for juvenile or adult female prisoners, but the government maintained a separate holding cell for up to two women at the National Police offices in Uliga. Authorities did not hold women with men, and the two female prisoners were under house arrest. Male juveniles were no longer held with adult male prisoners, and no juveniles were convicted of felonies as of November. Authorities did not separate pretrial detainees from the general prison population.

Lighting, ventilation, and sanitation were inadequate in the old prison wing, but were adequate in the new wing, which opened in November. Authorities periodically allowed prisoners outside in the vicinity of the prison and on work details. The jail was built into the police station, and security was appropriate. The walls were built of simple concrete blocks with some bared ceilings providing ventilation and security. There was little regular maintenance of the prison, but conditions improved due to renovations and limited repairs. Prisoners had access to potable water. There were no reports of deaths in prison.

Administration: Recordkeeping on prisoners was adequate, and authorities used alternatives to confinement for nonviolent offenders. Prisoners had reasonable access to visitors and religious observance. The country does not have an ombudsman, but the public defender has authority to serve on behalf of prisoners and detainees and advocates for their appropriate and timely release. Due to the small size of the country and the small prison population, inmates generally were known to the courts, and judges regularly reviewed pending cases. Authorities permitted inmates to submit complaints about their treatment without censorship and request investigation of credible allegations of inhumane conditions. There were no reported cases of abuse during the year.

Independent Monitoring: The government permits prison visits by independent human rights observers, but there were no such requests during the year.

Improvements: In 2012 officials made substantial improvements to one wing of the prison and opened the remodeled wing in November.

The Department of Public Safety acquired three acres of land in the community of Laura and began solicitation of bids for construction of a new facility. The

proposed facility will have the capacity to house 36 adult male prisoners, 10 adult female prisoners, juveniles, and pretrial detainees.

#### **d. 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 National Police, in conjunction with local government police forces, maintain internal security. All national police forces report to the Ministry of Justice. Civilian authorities maintained effective control over the police force, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the police.

#### **Arrest Procedures and Treatment of Detainees**

Under the constitution a warrant issued by a court is required for an arrest if there is adequate time to obtain one. The courts have interpreted this requirement to exempt situations such as a breach of the peace or a felony in progress. The law provides detainees the right to a prompt judicial determination regarding the legality of the detention. Authorities generally respected this right and informed detainees promptly of the charges against them.

There was a functioning system of bail, and detainees may request bond immediately upon arrest for minor offenses. Most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest. Detainees were allowed access to a lawyer of their choice and, if indigent, to one provided by the state. Families had access to detainees. Incommunicado detention was not known to occur. Given the lack of appropriate prison facilities, authorities detained female prisoners under house arrest. This involved taking away their passports (if they have one) and confining them to their homes during the night. During the day they had free access throughout Majuro. For example, one woman currently under house arrest runs a very popular restaurant. Police details drove by the homes of women under house arrest at regular intervals at night.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence. Unlike in previous years, there were no allegations that government officials used their positions to protect family members from prosecution for alleged wrongdoing.

As of September the Attorney General position was vacant, and a young, relatively inexperienced cadre of attorneys and law students ran the office. There was concern from the judicial branch that the vacancy was one of the causes of the low number of prosecutions during the year. Fiscal constraints prevented the government from hiring a prosecutor in the country's second largest population center of Ebeye, although a local government prosecutor assisted in filling that role. Additionally, Ebeye no longer had a public defender.

### **Trial Procedures**

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

Defendants may choose either a bench trial or a four-member jury trial if the penalty for the alleged offense is three or more years in prison. For crimes with a penalty of less than three years in prison, defendants receive a bench trial. The most recent jury trial, ended in 2012 by issuance of a verdict, involved individuals connected with a 2011 government fraud case. Of the last four trials, three were bench trials. Defendants enjoy a presumption of innocence and have the right to counsel. An attorney is provided at public expense for indigent defendants facing serious criminal charges. Defendants have the right to be informed promptly and in detail of the charges against them, with free interpretation between English and Marshallese as necessary. They also have the right to a fair trial without undue delay and with adequate time to prepare a defense. Defendants may question witnesses, examine government-held evidence, and appeal convictions. The constitution extends these rights to all citizens. Noncitizen defendants also enjoy these rights.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is no separate judiciary in civil matters, but there are administrative remedies for alleged wrongs, including human rights abuses, as well as judicial remedies within the general court system.

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

The constitution prohibits 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 provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

### **Internet Freedom**

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. Internet access and availability remained low (less than 10 percent of the country's population) due to high cost and technical difficulties, particularly in areas outside the capital city of Majuro.

### **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 respected these rights in practice.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

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

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government respected these rights in practice.

#### **Internally Displaced Persons (IDPs)**

There were IDPs residing in several locations across the country. These individuals were displaced during the United States nuclear testing era of 1947 to 1958 and prior to the Marshall Islands' independence in 1986. The UN special rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes found in March 2012 that "a durable solution has yet to be found to the displacement of communities affected by nuclear testing more than 60 years ago in the Marshall Islands."

#### **Protection of Refugees**

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practical terms the country has no history of refugees or asylum seekers.

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

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

#### **Elections and Political Participation**

Recent Elections: The 2011 national elections were free and fair.

Participation of Women and Minorities: There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities and traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was one woman in the 33-member Nitijela who served as minister of education, and there were four women in the 12-seat House of Iroij. Since the country's founding, there has always been a woman in the Nitijela but never more than one.

In the 2011 election, seven women contested, with one elected. Several women served in prominent appointed government positions, including those of minister, traditional rights court associate judge, secretary of health, secretary of foreign affairs, director of the Social Security Administration, banking commissioner, and chief clerk of the courts.

There were no members of minorities in the legislature. There are few minorities in the country. Running for office requires land rights, which are only available to indigenous Marshallese.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The government reported that corruption was overlooked sometimes due to a lack of investigative capacity, including resource constraints. The 2012 audit was received a month late with an unqualified opinion, which was a significant change from 2011 when the audit was seven months late and accompanied by a qualified opinion on internal controls and compliance.

Corruption: The Attorney General's Office is responsible for investigating cases of alleged corruption. The office engaged in very limited collaboration with civil society and was insufficiently resourced. Within existing resource constraints, however, the Attorney General's Office generally operated efficiently and independently. The Attorney General's office is typically headed by a third country national as an informal means to avoid conflicts of interest otherwise common due to family and business ties within the small population.

Authorities sentenced one official to house arrest after accepting a plea bargain for taking checks from the National Training Council.

In 2012 the court convicted four government employees in a fraud case first prosecuted in 2011. One individual received five years in prison. His three coconspirators bargained for and received lesser sentences for “cheating, forgery, conspiracy, misconduct in public office, and private gain by a government official.”

Voters looked to representatives for financial assistance, which pressured elected officials to provide patronage to extended family members and supporters. There were frequent allegations of nepotism in government hiring, especially for teachers. Studies found serious discrepancies between teacher pay and qualifications.

Whistleblower Protection: There are no laws providing specific protection or remedies for private or public employees who make internal or lawful public disclosures of illegal activities.

Financial Disclosure: Public officials are not subject to financial disclosure laws.

Public Access to Information: The law does not provide specifically for public access to government information. Although there is no specific statutory basis for denying such information, the government held that the burden for overcoming a denial of access rests with the public. In most cases to receive information, a document must be filed with the court showing a reason for the information.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination on the basis of sex, race, color, language, national or social origin, place of birth, and family status or descent, and the government generally observed these provisions.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and establishes penalties of up to 25 years' imprisonment for first-degree sexual

assault. The government did not effectively enforce the law, in part, due to budget constraints. Most observers, however, believed that police prosecuted few sexual offenses, since cultural constraints discouraged victims from reporting such crimes. Nevertheless, there was one filed case of rape in Ebeye. There are court rules to protect women during court testimony regarding rape charges.

Legislation prohibits domestic violence. Spousal abuse was common.

According to a government survey published in the *Marshall Islands Journal* in 2009, more than 70 percent of female spouses had been abused. The published account did not specify the time period covered by the survey. Violence against women outside the family also occurred.

Police generally responded to reports of rape and domestic assault, and the government's health office provided counseling in reported spousal and child abuse cases. NGOs increased efforts to raise awareness of domestic violence through marches and information sessions. Women's groups under the umbrella NGO Women United Together in the Marshall Islands (WUTMI) continued to publicize women's issues and rights.

In January a domestic violence unit opened within the Police Department.

Sexual Harassment: Sexual harassment is prohibited in the criminal code and defined as a petty misdemeanor. The law defines a wide range of activities constituting harassment, including unwanted communication whether anonymous or not, insults or taunts, communication at inconvenient hours or after indicating that further communication is unwelcome, and offensive or unwanted touching or coarse language that creates fear of bodily or property damage.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children and the information and means to do so free from discrimination. Access to information on contraception, and to prenatal care, skilled attendance at delivery, and postpartum care were available on Majuro and Kwajalein Atolls; however, on remote atolls, only infirmaries with minimally trained attendants were available. The Ministry of Health provided free contraceptives, with particular emphasis on reducing the high rate of teenage pregnancy. According to indicators published in 2011 by the Population Reference Bureau, an estimated 45 percent of married women between the ages 15 and 49 used some form of contraception.

Maternal mortality was approximately 0.15 to 0.3 percent (four reported maternal deaths in 2009 and two in 2010, with approximately 1,340 births per year in the country), although maternal deaths in the outer islands may have been underreported. A large number of premature babies were born to young teenage mothers, with a resulting high number of babies born with physical and mental deficiencies.

Discrimination: Women generally enjoy the same rights as men under family law and in the judicial system. The inheritance of property and traditional rank is matrilineal, with women occupying important positions in the traditional system, although control of property often was delegated to male family members on behalf of female landowners. Tribal chiefs are the traditional authorities in the country. Customarily, a chief is the husband or eldest son of the female landowner. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands. While female workers were prevalent in the public and private sectors, many were in low-paying jobs with little prospect for advancement. There is no law requiring equal pay for equal work; however, men and women had pay equity for all government positions involving similar work. According to the 2011 Census Summary report, 28 percent of all working-age women were employed, including in home production such as fishing and handicraft manufacture.

Women's groups under the NGO WUTMI continued to publicize women's issues and promote greater awareness of women's rights.

## **Children**

Birth Registration: Citizenship is derived through one's parents. Children born within the country to foreign parents do not acquire citizenship at birth but may apply for citizenship upon turning 18. Most births were registered immediately, although reporting was frequently delayed for births on outer islands. Failure to register births generally did not result in the denial of public services such as education or medical care.

Education: There are various fees required for primary and secondary education. Although primary education is legally compulsory, the government did not strictly enforce the law. To enter high school, students must take an admission exam, but there was limited space and not all who applied could attend high school.

Child Abuse: Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low. Nevertheless, a UNICEF Child Protection Baseline Report and government cooperation with a UNV Human Rights Coordinator, which included a local newspaper campaign, increased the level of awareness. Child abuse and neglect remained common. Convictions for violations are punishable by up to 25 years in prison, depending on the degree of the offense. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. There were three ongoing prosecutions related to one widely publicized case during the year.

Forced and Early Marriage: The legal minimum age for marriage is 18 for men and 16 for women. There were no government programs to address or prevent early marriage. According to UNICEF State of the World's Children report, 6 percent of girls in the country were married by age 15.

Sexual Exploitation of Children: The minimum age for consensual sex is 16. The country's statutory rape law provides penalties of up to 25 years' imprisonment for violators, but remains largely unenforced. No laws address child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There were few Jewish residents in the country, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution states that no person may be treated in a discriminatory manner under law or by public officials, but it does not include disability in its listing of specific prohibited grounds of discrimination. In practical terms persons with physical, sensory, intellectual, and mental disabilities faced difficulties in obtaining employment and accessing health care and other state services. There were no

laws or policies designed to ensure access for individuals with disabilities to buildings, education, communications, or information, although some government offices and private businesses have taken the initiative to remove barriers to access. Hospitals and two major grocery stores had ramps for persons with disabilities. The Ministry of Education began to incorporate awareness programs for students with disabilities, in particular the deaf community. During the year the courthouse completed a ground level courtroom to address concerns about accessibility.

The government provided minimal support for persons with mental disabilities. There were no psychiatric facilities in the country or community-based supports for persons with mental disabilities. Police held persons police deemed as exhibiting psychotic behavior in a standard detention cell until a healthcare worker could see them.

The Assistant Secretary for Internal Affairs serves as the focal point for disability issues. There is also a disability coordinator's office authorized by the cabinet to advise the government. The Ministry of Health is charged with addressing the needs of mental and physical disabilities, and the Ministry of Education is responsible for supporting special education for children with disabilities. Special education classes were provided in the public school system. There is also a small foreign-funded class providing three months of instruction for persons with hearing disabilities at Ebeye on Kwajalein Atoll and in Majuro. The attorney general is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but there were no such cases during the year.

### **National/Racial/Ethnic Minorities**

The authorities appeared to enforce immigration laws selectively against migrants, particularly from the People's Republic of China. Some ethnic Chinese reported being threatened or attacked based on their race and regularly targeted for racial slurs.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

There is no law criminalizing consensual same-sex activity, and there were no reports of societal violence based on sexual orientation or gender identity. There were no reports of official or societal discrimination based on sexual orientation or gender identity in employment, housing, statelessness, or access to education or health care. Existing antidiscrimination laws do not specifically protect lesbian,

gay, bisexual, and transgender (LGBT) persons. There are no formal impediments to organizations for LGBT persons, but no such organizations have been reported.

### **Other Societal Violence or Discrimination**

There were no accounts of societal violence based on HIV/AIDS infection. There was some cultural stigma attached to HIV infection, and NGOs and the government conducted campaigns to provide HIV/AIDS education and encourage testing for the disease.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutory instruments, protects freedom of association, and the government interpreted this right as allowing the existence of labor unions. With a small number of major employers, there were few opportunities for workers to unionize, and the country had a limited history and culture of organized labor.

The law neither provides nor prohibits the right to strike, and there is no legislation concerning collective bargaining or trade union organization. There are no laws prohibiting antiunion discrimination or allowing for reinstatement if dismissed for union activity.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits involuntary servitude, one form of forced labor. There were no reports of government enforcement of the law, and there were no reports of its practice among citizens.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

There is no law or regulation setting a minimum age for employment of children, and the government took no preventive measures during the year. Children typically were not employed in the wage economy, but it was common for children to assist their families in fishing, agriculture, retailing, and other small-scale enterprises. This was particularly true in the subsistence economies of the more remote atolls where copra production can take children from school and negatively affect educational outcomes.

**d. Acceptable Conditions of Work**

The law establishes a minimum wage of \$2.00 (the U.S. dollar is the official currency) per hour for both government and private-sector employees. This minimum wage has remained the same for over a decade, and there has been no legislation concerning maximum hours of work. No legislation provides protection for workers who file official complaints about conditions that endanger their health or safety. The laws apply to foreign workers in the same manner as indigenous citizens. The minimum wage does not apply to casual workers or family employees.

There are no official poverty levels. The bottom tax bracket (under which no taxes are assessed) is \$1,560 annually.

Foreign employees and local trainees of private employers who invested in or established a business in the country were exempt from minimum wage requirements. Most foreign workers, who constituted approximately 30 percent of the workforce (excluding agro-forestry) and most of the professional and technical classes in the country, earned considerably more than the minimum wage. Their earnings were estimated to average at least 50 percent higher than those of local workers.

Under the law Marshallese are given preference in hiring, and nonresident workers were hired only as a supplement to the local work force when there were no Marshallese qualified for the job. The law requires that employers who hire foreign workers pay a mandatory fee used for training Marshallese workers. Many employers willingly paid the fee to hire technically skilled labor, which was not widely available in the country.

The Board of Inquiry within the Ministry of Foreign Affairs has the authority to make recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours, overtime payments, and the occupational health and safety standards for workers. The penalty for violations of minimum wage is a fine not to exceed \$1,000 or six months in prison. Employees are entitled to back pay. There have been no policy recommendations or political initiatives by Board of Inquiry during the past four years, however, and the office did not conduct any inspections of workplaces related to health and safety conditions during the year. The office is empowered to inspect, but it does not have dedicated personnel to carry out inspections. The government did not provide

any protections for informal sector work, which generally included working on a family farm or in copra production.

Sundays were usually rest days, with most businesses closed.