

MARSHALL ISLANDS 2015 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 Loeak in early 2012, following free and fair multiparty elections in late 2011. The government has survived two votes of no confidence following extended open debate. Civilian authorities maintained effective control over security forces.

The most significant human rights problems included prison conditions, chronic government corruption, and chronic domestic violence.

Other human rights problems included child abuse, sex trafficking, and lack of legal provisions protecting worker's rights.

The government initiated and concluded prosecutions and punished officials who committed abuses.

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: 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 three female prisoners were under house arrest, which involved taking away their passports and confining them to their homes during the night. During the day, they had freedom of movement in the vicinity of their homes. Police details drove by the homes of women under house arrest at regular intervals at night.

Lighting and sanitation were inadequate in the old prison wing but adequate in the new wing. Authorities periodically allowed prisoners outside in the vicinity of the prison and on work details. There were no known disabled prisoners. There were no reports of violence, loss of control, or deaths in prison.

Administration: The country does not have an ombudsman, but the public defender has authority to represent 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 investigated credible allegations of inhumane conditions. No complaints were filed during the year. 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 requests for such visits during the year.

Improvements: Physical conditions improved due to renovations and limited repairs, including a project to improve ventilation. Prisoners had access to potable water.

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, local police forces, and the Sea Patrol (maritime police) maintain internal security. All national police forces report to the Ministry of Justice. Civilian authorities maintained effective control over security forces, and

the government has mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

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 interpret 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. The constitution requires bail be set at a reasonable rate. 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. There were no known cases of incommunicado detention. Due to the lack of appropriate prison facilities, authorities detained female arrestees (as well as convicted women) prisoners under house arrest.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

In August 2014 the position of attorney general was filled, after almost 11 months under an acting attorney general. Due to the cost, the government did not hire a prosecutor in the country's second largest population center, Ebeye. A prosecutor from the Attorney General's Office (AGO) visited Ebeye irregularly to fill the gap, with four or five months passing between visits. A local government prosecutor assisted in filling that role in the interim. Additionally, Ebeye has not had a public defender since 2013, when the Micronesian Legal Services Corporation closed its office. It was, however, in the process of re-opening that office during the year.

Trial Procedures

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

The majority of trials are bench trials, but 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. Defendants enjoy a presumption of innocence and have the right to counsel. An attorney is provided at public expense for indigent defendants facing 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. A concerted effort by the Chief Justice removed a backlog of cases, ensuring speedier trials.

Defendants may question witnesses, examine government-held evidence, and appeal convictions. Defendants may not be compelled to testify or confess guilt. Defendants have the right to appeal. These rights apply equally to citizens and non-citizens.

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 there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports that the government monitored private online communications without appropriate legal authority. Internet access and availability was increasing, although it remained low (approximately 10 percent of the country's population) due to high cost and technical difficulties, particularly in areas outside the capital city, 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 the freedoms 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/religiousfreedomreport/.

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 generally respected these rights.

Internally Displaced Persons

An estimated 14,000 individuals were displaced during the era of U.S. nuclear testing from 1947 to 1958. Some relocated to the United States, but most internally displaced persons (IDPs) resided in several locations across the country, including Kili Island and Ejit Islet in Majuro Atoll. In 2012 the UN special rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes found that “a durable solution has yet to be found to the displacement of communities affected by U.S. nuclear testing more than 60 years ago in the Marshall Islands.” IDPs did not suffer societal discrimination and received substantial government support.

There have been recent initiatives to resettle displaced communities in the United States.

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. The country has no history of refugees or asylum seekers.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability.

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 also served as minister of education, and there were two 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. Additionally, a woman served as an associate justice on the high court until mid-2015.

In the 2011 election, seven women contested seats, with one elected. During the year, women served in prominent appointed government positions, including as cabinet members, judges, and senior ministry/agency directors.

There were few minorities in the country and none in the legislature. Running for office requires land rights, which are available only to indigenous Marshallese. During the year, however, a naturalized Marshallese citizen successfully challenged this requirement in court, and was allowed to run for a Nitijela seat.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, although a lack of investigative capacity and material resources hindered the effective implementation of the law. The government reported that corruption was sometimes overlooked. The 2014 audit of the national government and its components, including state-owned enterprises, was due in September, but the country received an extension to November 30. The 2013 audit listed several deficiencies and material weaknesses.

Corruption: The AGO, which is responsible for investigating cases of alleged corruption, engaged in very limited collaboration with civil society and remained insufficiently resourced. Within existing resource constraints, however, the office generally operated efficiently and independently. The office is typically headed by a foreign citizen as an informal means to avoid conflicts of interest, which are common due to family and business ties within the small population.

In late 2013 and early 2014, prosecutors initiated an investigation of fraud and bribery in the Ministry of Health involving a privately contracted pharmaceutical and medical equipment company. The investigation led to charges against eight individuals inside and outside the government. One individual was convicted in October 2014 and sentenced to seven years in jail. A jury acquitted a second individual of all charges in May.

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, nor does it provide a statutory basis for denying access. The government held that the burden of proof for overcoming a denial of access rested with the requester. In most cases, government information can be obtained by justifying the request in court and obtaining a subpoena 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, religion, language, national or social origin, political opinion, place of birth, and family status or descent, and the government generally observed these provisions. The constitution does not specifically prohibit discrimination on the basis of disability, sexual orientation, gender identity, age, HIV or other communicable disease status. Land ownership and the right to run for office are reserved to indigenous citizens, although a naturalized Marshallese citizen has successfully challenged the latter in court (see Section 3).

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. Police generally respond to rape and domestic assault cases. A domestic violence unit of the police is active in prosecutions and community outreach. The government prosecutes rape cases. Many observers, however, believed reporting and prosecution of sexual offenses was low, since cultural constraints discouraged victims from reporting such crimes. A lack of tools and capacity for evidence gathering also hindered prosecutors. During the year, the chief justice of the High Court dismissed one sexual assault case despite finding "good cause" to believe the assault occurred, after prosecutors refused to correct an error in the criminal filing. There are court rules to protect women during testimony regarding rape charges.

The 2011 Domestic Violence Protection and Prevention Act seeks to stigmatize domestic violence; ensure investigation, prosecution, and punishment for perpetrators; and provide support for survivors. The law is used only sporadically, and awareness of it is low outside Majuro. The courts have issued 16 protection orders under the law since 2011. The act also requires certain professionals to report suspected domestic violence.

A 2015 UN Population Fund study stated that seven out of 10 women have experienced physical or sexual violence in their lifetime. The study also concluded that 91 percent of women who experienced domestic violence at the hands of their partner or spouse did not report it due to fear of repercussion or belief that the abuse was justified.

The government's health office provided counseling in reported spousal and child abuse cases. Nongovernmental organizations (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 continued to publicize women's issues and rights.

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 their children, manage their reproductive health, and have access to the information and means to do so, free from discrimination, coercion, or violence. Access to information on contraception, prenatal care, skilled attendance at delivery, and postpartum care was available on Majuro and Kwajalein Atolls. 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. 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. According to indicators published in 2011 by the Population Reference Bureau, an estimated 45 percent of married women between the ages 15 and 49 years used some form of contraception.

Discrimination: Women generally enjoy the same rights as men under family, nationality, and labor law, and in the judicial system. The inheritance of property and traditional rank is matrilineal on most atolls, 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. No law requires 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, tuna canning, and handicraft manufacture.

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 years old. 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. No gender differences existed in birth registration law, policies, and procedures.

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

Child Abuse: Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low. 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. A handful of prosecutions for child abuse occurred during the year.

Early and Forced Marriage: The legal minimum age for marriage is 18 years for men and 16 years for women. There were no government programs to address or prevent early marriage. According to the UN Population Fund database, 26.3 percent of women aged 20-24 years married before 18 years of age. Forced marriage was not practiced.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. The country's statutory rape law, which provides penalties of up to 25 years' imprisonment for violators, remained 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/rls/tiprpt/.

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. 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 removed barriers to access. Hospitals and two major grocery stores had ramps for persons with disabilities.

Government support for persons with mental and other disabilities increased during the year. In 2015, two ministers introduced the Rights of Persons with Disabilities Act to declare the equal rights and freedoms of persons with disabilities by implementing the UN Convention on the Rights of Persons with Disabilities. The legislation remained in legislative committee hearings at the end of the 2015 session. There were no dedicated psychiatric facilities in the country or community-based supports for persons with mental disabilities, although the Ministry of Health provided patients with short-term care at the Majuro Hospital or facilities off-island. Police held persons deemed as exhibiting psychotic behavior in a standard detention cell until a health-care worker could see them.

The 92-member NGO Marshall Islands Disabled Persons Organization (MIDPO) promoted and protected the rights and interests of persons with disabilities. MIDPO works with the Ministry of Internal Affairs' disability officer as needed. The organization held a "Disability Week" event in December 2014 to raise public awareness of persons with disabilities and provide workshops for the community.

The assistant secretary of the Ministry for Internal Affairs serves as the focal point for disability issues and a Disability Coordinator's Office authorized by the Cabinet advises the government. The Ministry of Health is charged with

addressing the health needs of persons with mental and physical disabilities, and the Public School System (formerly the Ministry of Education) is responsible for supporting special education for children with disabilities and continued to incorporate awareness programs for students with disabilities, in particular those with hearing difficulties. The public schools provided special education classes in urban and outer island schools. There is also a small foreign-funded class providing instruction for the hearing disabled at Ebeye on Kwajalein Atoll and in Majuro. The AGO is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but there were no such cases during the year.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

No law criminalizes 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, transgender, and intersex (LGBTI) persons. There were no formal impediments to LGBTI organizations, but no such organizations were reported

HIV and AIDS Social Stigma

The Ministry of Health reported a low incidence of HIV/AIDS. There were no reports of official or societal discrimination or cultural stigma toward persons with HIV/AIDS. HIV/AIDS education was part of local health education programs. Public health clinics provide HIV testing.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for freedom of association, and the government interpreted this right as allowing the existence of labor unions. The law neither provides for nor prohibits the right to strike, and there is no legislation concerning collective bargaining or trade union organization. There are no laws prohibiting anti-union discrimination or allowing for reinstatement of a person dismissed for union activity.

The government enforced freedom of association laws.

With a small number of major employers, there were few opportunities for workers to unionize.

Independent trade unions did not exist, and there were no NGOs promoting the rights of workers.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits slavery, involuntary servitude, forced labor, and compulsory labor, with exceptions for labor required by the sentence or order of a court, any other labor required of a person lawfully detained if reasonably necessary for the maintenance of the place of detention, and any service required by law in lieu of compulsory military service when such service has been lawfully required of others. There were no reports of government enforcement of the law, and there were no reported investigations of forced labor. Penalties range from 35 months to 10 years in prison and fines from \$5,000 to \$10,000.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

There is no law or regulation setting a minimum age, hours of work, or occupational health restrictions 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. Discrimination with Respect to Employment or Occupation

The constitution states that no person may be treated in a discriminatory manner under law or by public officials. Labor laws and regulations do not specifically prohibit employment discrimination based on race, color, sex, religion, political opinion, national origin or citizenship, social origin, age, disability, language, sexual orientation and/or gender identity, HIV-positive status, or other

communicable diseases. The government took no workplace discrimination enforcement actions during the year. Under the law Marshallese are given preference in hiring, and nonresident workers were hired only as a supplement to the local work force when 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.

e. Acceptable Conditions of Work

The law establishes a minimum wage of two dollars (the U.S. dollar is the official currency) per hour for both government and private-sector employees. The minimum wage does not apply to casual workers or family employees.

There are no official poverty levels. No taxes are assessed on annual incomes under \$1,560.

Foreign employees and local trainees of private employers who invested in or established a business in the country are exempt from minimum wage requirements provided authorization has been received from the government by those employers.

There is 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 citizens. The law does not provide for workers to remove themselves from situations that endanger health or safety without jeopardy to their employment.

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 occupational health and safety standards for workers. There were no policy recommendations or political initiatives by the Board of Inquiry during the year, however, and the office did not conduct any inspections of workplaces related to health and safety conditions. 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.

Most foreign workers, who constituted approximately 30 percent of the workforce (excluding agroforestry), 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.