

MARSHALL ISLANDS 2014 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 multi-party elections in late 2011. The government has survived two votes of no confidence following extended open debate. Authorities maintained effective control over security forces.

The most significant human rights problems included spartan 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 successfully 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: As of September the country's only national prison, on Majuro Atoll, which was built to hold up to 36 persons, held 35 inmates--all male adults. Four of these were awaiting trial. 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 two female prisoners were under house arrest. Unlike in previous years, male juveniles were no longer held with adult male prisoners. No juveniles were convicted of felonies as of November.

Lighting, ventilation, and sanitation were inadequate in the old prison wing but were adequate in the new wing, which opened in November 2013. 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 barred ceilings providing ventilation and security. Physical 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 investigated 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 2013 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. Improvements in prison facilities were listed as a need in the 2015-17 National Strategic Plan, and the country was aggressively pursuing donor support.

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, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving 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 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. Due to the lack of appropriate prison facilities, authorities detained female prisoners under house arrest. This involved taking away their passports and confining them to their homes during the night. During the day they had freedom of movement locally. 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.

In August the position of attorney general was filled, after almost 11 months under an acting attorney general. The office staff was young and relatively inexperienced. The judiciary was concerned that the vacancy would produce few

prosecutions. The Attorney General's Office (AGO), however, vigorously prosecuted a fraud/bribery scandal and successfully concluded prosecutions begun earlier. Due to the cost, the government did not hire a prosecutor in the country's second largest population center, Ebeye. A prosecutor from the AGO attempted to make scheduled quarterly visits to Ebeye to fill the gap, although they were irregular, with four or five months passing between visits. A local government prosecutor assisted in filling that role in the interim. Additionally, Ebeye no longer had a public defender, as the Micronesian Legal Services Corporation closed its office in 2013. 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.

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, and the majority of trials are 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 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 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 press, 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 the press.

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 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 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 respected these rights in practice.

Internally Displaced Persons (IDPs)

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 IDPs resided in several locations across the country. 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.

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 ability to change their government through free and fair elections, which they exercised through 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. Additionally, a woman served as an associate justice on the high court.

In the 2011 election, seven women contested seats, with one elected. Several women served in prominent appointed government positions, including those of minister, associate judge in the traditional rights court, 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 available only to indigenous Marshallese.

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 2013 audit of the national government and its components, including state-owned enterprises, was not due as of October 2014. The 2012 audit was received a month late with no finding of financial irregularity.

Corruption: The AGO is responsible for investigating cases of alleged corruption. The office 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 otherwise 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 of the government. One individual was convicted in early October and sentenced to seven years in jail. Other trials were pending at year's end.

Voters seeking financial assistance have pressured elected officials to provide patronage to extended family members and supporters. In the past there were frequent allegations of nepotism in government hiring, especially for teachers. The legislative session that commenced in January enacted significant reforms the Ministry of Education had sought, and teacher hiring, salaries, and qualifications were increasingly transparent.

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 of proof for overcoming a denial of access rests with the public. In most cases a document can be obtained by requesting a subpoena in court justifying the request for 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. Land ownership and the right to run for office are reserved to indigenous citizens.

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 prosecutes rape cases. Many observers, however, believed that police prosecuted few sexual offenses, since cultural constraints discouraged victims from reporting such crimes. A lack of tools and capacity for evidence gathering also hindered prosecutors. There are court rules to protect women during testimony regarding rape charges.

Legislation prohibits domestic violence. Spousal abuse remained 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 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. Non-governmental 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.

In January 2013 a domestic violence unit opened within the police department.

Female Genital Mutilation/Cutting (FGM/C): The practice of FGM/C is unknown in the country.

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, coercion, and violence. Access to information on contraception, prenatal care, skilled attendance at delivery, and postpartum care were 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 used some form of contraception.

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.

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: 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. Nevertheless, a UN Children's Fund (UNICEF) Child Protection Baseline Report and government cooperation with a UN 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. A handful of prosecutions for child abuse occurred every year.

Early and Forced 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 a UNICEF report, 6 percent of girls were married by age 15.

Female Genital Mutilation/Cutting (FGM/C): The practice of FGM/C is unknown in the country.

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 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. For information see the Department of State's report on compliance at travel.state.gov/content/childabduction/english/legal/compliance.html.

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. 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 took 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 those with hearing difficulties. In 2013 the courthouse completed a ground-level courtroom to address concerns about accessibility.

Government support for persons with mental and other disabilities was increasing. During the year the session of the legislature endorsed the Marshall Islands Policy

on Disabled Persons and budgeted for its implementation. There were no dedicated psychiatric facilities in the country or community-based supports for persons with mental disabilities, although patients were given short-term care at the Majuro Hospital or in facilities off-island through the Ministry of Health. Police held persons deemed as exhibiting psychotic behavior in a standard detention cell until a health-care 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 those with 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 AGO 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

In the past the authorities appeared to enforce immigration laws selectively, particularly against migrants from the People's Republic of China. In 2013 police, aware of the perception of bias, professionalized evidence collection and enforcement to eliminate the bias.

Acts of Violence, Discrimination, and Other Abuses 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 were reported.

HIV and AIDS Social Stigma

The Ministry of Health reported a low incidence of HIV/AIDS. There had been only 25 registered cases, seven of whom were receiving treatment in the country.

The rest had either died or moved abroad. 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, provides for 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 for 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 a person dismissed for union activity.

b. Prohibition of Forced or Compulsory Labor

The law prohibits only involuntary servitude, one form of forced labor. There were no reports of government enforcement of the law, and there were no reported investigations of its practice among citizens. 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/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, sex, gender, disability, language, sexual orientation and/or gender identity, HIV-positive status or other communicable diseases, or social status. There were no claims of discrimination with respect to employment or occupation, nor were there any enforcement actions.

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. This minimum wage has remained the same for over a decade, and 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 minimum wage does not apply to casual workers or family employees. The law does not provide for workers to remove themselves from situations that endanger health or safety without jeopardy to their employment.

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 provided authorization has been received from the government by those employers. 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.

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.

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.

Sundays were usually rest days, with most businesses closed.