

MARSHALL ISLANDS 2012 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 following generally free and fair multiparty elections in November 2011. Security forces report to civilian authorities.

Human rights problems included poor prison conditions, government corruption, violence toward women, child abuse, and lack of worker protections.

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 December the country's only national prison, on Majuro Atoll, held approximately 32 inmates--all male adults. Two of these inmates were awaiting trial, and the rest were convicted prisoners.

There were no specialized prison facilities for female prisoners, including juveniles, although the government previously established a holding cell for up to two women at the National Police offices in Uliga. Generally, authorities held female prisoners under house arrest, although some remained temporarily under custody in a separate police substation until released to house arrest. Authorities held male juveniles temporarily with the general prison population until their release to their parents. Pretrial detainees were not separated from the general prison population.

Lighting, ventilation, and sanitation were inadequate. Prisoners were periodically allowed outside in the vicinity of the prison and on work details. The jail is built into the police station and security is minimal. The walls were built of simple concrete blocks with some rebar exposed. There was little regular maintenance of the prison, but conditions improved during the year due to renovations and limited repairs. Prisoners had access to potable water, but supplies were limited.

Administration: Recordkeeping on prisoners was adequate, and authorities used alternatives to sentencing 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. They were permitted 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.

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

Improvements: Walls and ceiling rebar were repaired throughout the facility, and sanitation and maintenance were improved in cells. Substantial improvements were made to one wing of the prison that will house approximately 20 prisoners in cells with new walls, bunks, and toilets. Builders completed renovations to the wing in November but needed final code inspection by the contractor at year's end.

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 security forces during the year.

There was no update in the 2011 case involving police officers who reportedly stole more than \$3,000 (the U.S. dollar is the official currency) from the police station's evidence room. As of December no disciplinary action was taken, and the case remained under investigation by the Attorney General's Office and the National Police.

Arrest Procedures and Treatment While in Detention

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 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 a problem. Given the lack of appropriate prison facilities, house arrest was common for women. House arrest for women involved taking away their passports and consigning them to their homes during the night. However, during the day they had free access throughout Majuro. For example, one woman currently under house arrest runs a very popular restaurant. Police details are supposed to drive by the homes of women under house arrest at regular intervals at night, but these patrols were infrequent.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice, although there were unconfirmed reports from local business owners and the Attorney General's Office that government officials used their positions to protect family members from prosecution for alleged wrongdoing.

Trial Procedures

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

Defendants may choose either a bench trial or a four-member jury trial. Defendants normally opted for jury trials, which had a higher rate of acquittals. 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, with free interpretation as necessary. They also have the right to a fair trial without undue delay and 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 judicial oversight. 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 of 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 freedom of assembly and association, and the government generally 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.

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 in practice. The need did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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 practice the country has almost 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 in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: National elections were held in November 2011 and were generally 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 November 2011 national election, seven women ran, and one was 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, and running for office requires land rights, which are only available to native Marshallese.

Section 4. Corruption and Lack of Transparency in Government

While the law provides criminal penalties for official corruption, the government did not implement the law effectively, and officials sometimes engaged in corrupt

practices with impunity. In September 2011 independent auditors reported that they had identified 12 problem areas in the country's 2010 financial statements. The auditors gave a qualified opinion on internal controls and compliance, noting deficiencies and material weaknesses in fiscal controls. As of December the independent audit for Fiscal Year 2011 had not been released.

Public officials are not subject to financial disclosure laws. 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.

During the year a court convicted government employees Donnie Andrike, Steve Samuel, and Nella Nasion of cheating, forgery, conspiracy, misconduct in public office, and private gain by a government official after conspiring with local businesses to create fake purchase orders to steal foreign funds provided to the country. A police investigation at the Ministry of Finance produced evidence that the scheme dated to 2006 and may have resulted in losses of \$1 million.

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

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, in order to receive information, a document must be filed with the court showing the reason the information is required.

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

Domestic human rights organizations generally operated without government restriction, but few local groups existed. The government was not always responsive to the concerns of nongovernmental organizations (NGOs).

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 the government generally enforced the law when incidents were reported to officials. The law establishes penalties of up to 25 years' imprisonment for first-degree sexual assault. However, most observers believed that few sexual offenses were prosecuted, since cultural constraints discouraged victims from reporting such crimes to the police. The courts have promulgated rules designed to protect women filing rape charges during court testimony.

Legislation prohibits domestic violence. Spousal abuse was common; most assaults occurred while the assailant was under the influence of alcohol.

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, and women in urban centers risked assault if they went out alone after dark.

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.

Sexual Harassment: Sexual harassment is not prohibited by law, and there is no reliable data regarding the incidence of harassment.

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 ages 15-49 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. 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 home production such as fishing and handicraft production.

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 law was not strictly

enforced. In order to enter high school, students must take an admission exam; not all students were admitted, however, due to space constraints.

Child Abuse: Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and 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. Nonetheless, there were no reports of prosecutions during the year.

Child Marriage: The legal minimum age for marriage is 18 for men and 16 for women. Early marriage was generally uncommon, and there were no government programs to address or prevent early marriage. There are no available statistics for the rate of marriage for women under 18.

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. 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.

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 practice 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, public transport, education, communications, or information. There were no building codes, and in practice most buildings were not accessible to persons with disabilities. 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.

The government provided minimal support for persons with mental disabilities. There were no psychiatric facilities in the country. Persons whom the police deemed as exhibiting psychotic behavior were held in a standard detention cell until they could be seen by a healthcare worker.

There is no government agency specifically charged with protecting the rights of persons with disabilities in general. The Ministry of Health is charged with treating mental and physical disabilities, and the Ministry of Education is responsible for supporting special education for children with disabilities. In practice there were no special education classes for children with disabilities, except for a small foreign-funded class providing three months of instruction for the hearing impaired 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 no such cases were brought during the year.

National/Racial/Ethnic Minorities

The authorities appeared to selectively enforce immigration laws 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.

A law requires that employers who hire foreign workers make monetary contributions into a fund that provides job training for citizens. While many considered the law discriminatory against foreign workers, employers willingly paid the fee to hire technically skilled labor, which was not widely available in the country.

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 in general, 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.

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

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.

d. Acceptable Conditions of Work

The law establishes a minimum wage of \$2.00 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.

There are no official poverty levels. However, 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.

The Office of the Chief of Labor 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. However, there have been no policy recommendations or political initiatives by the Office of Chief of Labor during the past four years, and the office did not conduct any inspections of workplaces related to health and safety conditions during the year. There are no dedicated inspectors. The office is empowered to inspect, but does not have dedicated personnel to carry out inspections.

On Sundays, most businesses were closed, and people generally refrained from working.