

MARSHALL ISLANDS 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President Hilda C. Heine. The Nitijela, the country's parliament, elected Heine in early 2016, following free and fair multiparty elections in late 2015.

Civilian authorities maintained effective control over security forces.

The most significant human rights issues included: government corruption; chronic domestic violence; child abuse; and trafficking in persons.

The government did not initiate or conclude investigations or prosecutions of officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

A foreigner reported to local media that he observed a 19-year-old female prisoner held naked in the Ebeye jail and visible to any members of the general public who entered the jail. The government did not respond to requests for comment on the alleged mistreatment.

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 at the jail in Majuro. Authorities did not hold women with men in the Majuro jail. Female prisoners in the capital were held under house arrest, which involved taking away their passports and confining them to their homes at night. One juvenile arrested for homicide in Majuro was kept apart from adult men in a makeshift cell lacking a toilet and drinking water. The juvenile prisoner relied on guards to take him to and from the toilet and a water cooler. Lighting and sanitation were inadequate.

The jail in Ebeye on Kwajalein Atoll, attached to the courthouse, is the only detention facility in the country other than the Majuro prison. According to High Court Judge Colin Winchester, who oversaw a case on the island in January, Ebeye's jail is "horrible" and "degrading for anyone who must be confined in it." According to the judge, he observed 10 individuals incarcerated there, and "if there are two or three people there, it is at its humane limit." Following the trial, Winchester sentenced three men to jail terms but remanded them to Majuro jail due to the poor conditions at Ebeye jail. National Police officials commented that Ebeye is supposed to send all prisoners to Majuro jail but does not always do so because of the high cost of transportation.

Authorities allowed prisoners to leave facilities periodically on work details or for meals at home. Police escorted prisoners needing medical treatment to the Majuro Hospital where they received free treatment. One prisoner committed suicide after being arrested for beating his spouse to death.

Administration: Authorities permitted inmates to submit complaints about their treatment without censorship and investigated credible allegations of inhumane conditions. There were no complaints filed during the year. Other than the incident observed in Ebeye (above), there were no reported cases of physical 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: Construction began on a new, larger, stand-alone correctional facility in Laura, at the western end of Majuro Atoll. The new facility will have separate areas for men, women, and juvenile offenders and, according to the Ministry of Justice, conditions at the new facility will meet international standards.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

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 generally maintained effective control over security forces, and the government has mechanisms to investigate and punish abuse. 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.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: There were no reports of detention without judicial authorization. The constitution provides detainees the right to challenge in court the legal basis or arbitrary nature of their detention and obtain immediate release if found to have been unlawfully detained.

e. Denial of Fair Public Trial

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

Trial Procedures

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

The majority of trials are bench trials; however, if the penalty for the alleged offense is three or more years in prison, defendants may select a bench trial or a four-member jury trial. Defendants enjoy a presumption of innocence and have the right to counsel. The government provides an attorney at public expense for indigent defendants facing criminal charges. By law, authorities must inform defendants promptly and in detail of the charges against them, with free interpretation between English and Marshallese as necessary. Defendants also have the right to a fair trial without undue delay and with adequate time to prepare a defense. Defendants have the right to be present at their trial.

Defendants may question witnesses 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 noncitizens.

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. There are administrative remedies for alleged wrongs, including human rights abuses, as well as judicial remedies within the general court system.

f. Arbitrary or Unlawful 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 Expression, Including for the Press

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

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Internet access and availability increased, 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. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of assembly and association, and the government respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

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

Internally Displaced Persons (IDPs)

An estimated 14,000 individuals were displaced by U.S. nuclear testing from 1947 to 1958. Some relocated to the U.S., but most remained as IDPs residing in several locations across the country, including Kili Island and Ejit Islet in Majuro Atoll. IDPs did not suffer societal discrimination and received substantial government support.

Protection of Refugees

Access to Asylum: The laws do not provide for granting 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 constitution provides citizens the ability to choose local governments and their representatives in the Nitijela in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. The constitution also recognizes the hereditary Council of Iroij's right to decide on issues of custom and tradition, including land tenure. The council consists of tribal chiefs.

Elections and Political Participation

Recent Elections: The February constitutional convention election was free and fair.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate. Traditional attitudes of male dominance, women's cultural responsibilities and traditionally passive roles, and the generally early age of pregnancies, however, made it difficult for women to obtain political qualifications or experience. President Heine is a woman.

There were few minorities in the country and none in the legislature.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and although the government generally implemented the law effectively, officials sometimes engaged in corrupt practices with impunity. The FY 2016 (October 1, 2015-September 30, 2016) audit of the national government was the first to be completed on time in the past six years; like previous audits, it listed several deficiencies and material weaknesses.

Corruption: According to the auditor general, the office received 13 new allegations related to bribery in official matters in the year to September. These

involved check forgeries, embezzlement, bid rigging, abuse of public office for private gain, and misappropriation of public funds. One notable corruption case concluded in March, when the High Court found former senator from Mili Atoll Kejjo Bien guilty of “civil theft” for wrongfully taking and converting \$40,000 (the U.S. dollar is the official currency) in grant money from Taiwan for his own use.

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

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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

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 sometimes 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. There are court rules to protect women during testimony regarding rape charges.

The law seeks to stigmatize domestic violence; ensure investigation, prosecution, and punishment for perpetrators; and provide support for survivors. Relevant law was used only sporadically, and awareness of it was low outside Majuro. The law also requires certain professionals to report suspected domestic violence.

UN Women estimated that 35 percent of women experience physical and/or sexual violence at some point in their lives. Another UN study pointed out 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.

A 2016 study by the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) reported that the prevalence of domestic violence was directly related to patriarchal societal norms that place women in a subordinate cultural role. According to the study, most citizens believed that men were justified in using violence against women in many situations.

The government's health office provided limited counseling services in reported spousal and child abuse cases. NGOs increased efforts to raise awareness of domestic violence through marches and information sessions. There are no shelters for domestic violence victims in the country.

Sexual Harassment: Sexual harassment is prohibited in the criminal code and is defined as a petty misdemeanor.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: Women generally enjoy the same rights as men. The inheritance of property and traditional rank is matrilineal on most atolls, 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.

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.

Children

Birth Registration: Citizenship is acquired 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. Failure to register births generally did not result in the denial of public services such as education or medical care.

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 due to space constraints, not all who passed the exam could attend public high schools.

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.

Early and Forced Marriage: The legal minimum age for marriage is 18 for men and 16 for women. According to the UN Population Fund database, 26.3 percent of women aged 20-24 were married before 18. There were no known government measures to prevent or mitigate early marriage.

Sexual Exploitation of Children: The minimum age for consensual sex is 16. The country's statutory rape law, which provides penalties of up to 25 years' imprisonment for violators, remained largely unenforced. The Child Rights Act of 2015 makes the exploitation of children, including in child pornography and other forms of sexual exploitation, illegal. The act makes trafficking in children and child pornography production punishable offenses under the criminal code. The act stipulates that authorities may not punish child victims of sexual exploitation and that these victims should have access to support services.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

There were few Jewish residents in the country and 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. Relevant law is designed to implement the UN Convention on the Rights of Persons with Disabilities. Persons with physical, sensory, intellectual, and mental disabilities faced difficulties in obtaining employment and accessing health care and other state services.

There were no dedicated psychiatric facilities in the country or community-based supports for persons with mental disabilities, although the Ministry of Health provided short-term care at the Majuro Hospital or facilities off-island.

The NGO Marshall Islands Disabled Persons Organization (MIDPO) worked with the Ministry of Internal Affairs' disability officer as needed to promote and protect the rights and interests of persons with disabilities.

The Ministry of Health addresses the health needs of persons with mental and physical disabilities. The public school system 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 disabilities.

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

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. The law prohibits same-sex couples or individuals involved in a same-sex relationship from adopting Marshallese children.

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 people to form and join independent labor unions. The law

neither provides for nor prohibits the right to strike. The law does not specifically prohibit antiunion discrimination, nor does it specifically require the reinstatement of workers fired for union activity.

The government enforced freedom of association laws. Penalties take the form of fines and were sufficient to deter violations.

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. The government did not effectively enforce the law. There were no reports of government enforcement, and there were no reported investigations of forced labor. Penalties were insufficient to deter violations. There were reports of families holding or attempting to hold extended relatives, including children, in domestic servitude, but there were no known formal allegations made or convictions for this practice.

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. The law prohibits exploitation of children under the age of 18, including in the worst forms of child labor, child begging, and child domestic work. Children typically did not work 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 and 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 or other communicable disease status. The constitution states that the attorney general, in all cases of violations of the constitution, whether by private or public officials, has the standing to complain of the violation in judicial proceedings. The criminal code does not stipulate any specific penalty in such cases. There were no formal complaints of discrimination during the year to October. No law mandates equal pay for equal work; government employees receive pay equity. Under the law, citizens are given preference in hiring and noncitizen workers are hired only to supplement the local work force when no citizens qualify for the job. The law requires that employers who hire foreign workers pay a fee used for training citizen 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 \$2.50 per hour for both government and private-sector employees, and the government generally enforced wage law. The minimum wage does not apply to casual workers or family employees. The laws apply to foreign workers in the same manner as citizens. There was no official poverty level.

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 the employer receives government authorization. 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.

No legislation provides protection for workers who file official complaints about conditions that endanger their health or safety. 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 health and safety inspections of workplaces. The office is empowered to do so, but it does not have dedicated inspectors to carry out inspections to enforce sufficient compliance. The law provides no protections for informal-sector workers, which generally included work on a family farm or in copra production.