

MARSHALL ISLANDS 2016 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 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 workers' 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 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 politically motivated disappearances.

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

Foreign officials observed prisoners held on Enniburr Island in Kwajalein Atoll shackled to poles in public for 24-hour periods without protection from the elements. Family members provided food to these prisoners, but if the family was unable or unwilling to provide assistance, the prisoners received no food or water for the 24-hour period. The Enniburr local police appeared to use this form of punishment without trial or conviction.

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. Authorities held female prisoners 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 some national prison and local jail facilities. Authorities allowed prisoners to leave facilities periodically on work details or for meals at home. There were no known deaths in facilities.

Administration: While there is no ombudsman, 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. There were no complaints filed during the year. Other than the incident observed in Enniburr (above), 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.

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 generally 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.

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.

A prosecutor from the Attorney General's Office (AGO) visits Ebeye, the country's second largest population center, during court sessions. Micronesian Legal Services maintains an office on Ebeye and employs a full time attorney there.

Trial Procedures

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

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 by U.S. nuclear testing from 1947 to 1958. Some relocated to the United States, but most remained as internally displaced persons (IDPs) residing 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.” 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 2015 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 were three women in the 33-member Nitijela and two in the 12-seat Council of Iroij. The Nitijela elected the first woman president in the country’s history in January and the minister of internal affairs is a woman. During the year, women served in prominent appointed government positions, including as cabinet members and senior ministry/agency directors.

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 official corruption, although a lack of investigative capacity and material resources hindered the effective implementation of the law. The 2014 audit of the national government, due in September 2015, but only completed in February 2016, listed several deficiencies and material weaknesses.

The AGO, which is responsible for investigating alleged corruption, engaged in 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.

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

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.

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.

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 Marshallese believed that men were justified in using violence against women in many situations. The study also noted resistance to women's empowerment and domestic violence prevention in the religious and tribal chief leadership, which see in these activities an erosion of Marshallese culture.

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. Women's groups under the umbrella of WUTMI continued to publicize women's issues and rights. During the year, WUTMI began offering "'Weto in Mour': Violence Against Women and Girls Support Service" to survivors of domestic violence age 14 and above. The service, open daily, provides wide-ranging aid (e.g., education, counseling, and legal services) to victims of domestic violence. There are no shelters for domestic violence victims in the country.

Sexual Harassment: The criminal code prohibits sexual harassment and defines it 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 disabilities. According to the UN Population Division, an estimated 43 percent of married women between the ages of 15 and 49 used some form of modern contraception in 2015.

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. 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 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. 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 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. The Child Rights Act of 2015 provides children with expanded rights, including the right to live free of abuse.

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 the UN Population Fund database, 26.3 percent of women aged 20-24 were married before 18. Forced marriage was not practiced.

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 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. Hospitals, two major grocery stores, and one hotel had ramps for persons with disabilities.

Government support for persons with mental and other disabilities increased during the year. The Rights of Persons with Disabilities Act of 2015 implements the UN Convention on the Rights of Persons with Disabilities. The act includes provisions prohibiting discrimination against persons with disabilities in employment, education, travel, and transportation, access to health care, access to the judicial system, and the right to vote and establishes physical accessibility requirements.

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. Police held persons deemed as exhibiting psychotic behavior in a standard detention cell until a healthcare worker could see them.

The NGO Marshall Islands Disabled Persons Organization (MIDPO) promoted and protected the rights and interests of persons with disabilities. MIDPO worked with the Ministry of Internal Affairs' disability officer as needed. The organization held annual events to raise public awareness of persons with disabilities and provided 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 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. The public schools provided special education classes in urban and outer island schools. There were also small foreign-funded classes providing instruction for persons with hearing disabilities at Ebeye on Kwajalein Atoll and in Majuro. The AGO is responsible for prosecuting legal

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. The law prohibits same-sex couples or individuals involved in a same-sex relationship from adopting Marshallese children. There were no reports of unique legal or social discrimination against women in the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community. Existing antidiscrimination laws do not specifically protect LGBTI persons. There were no formal impediments to LGBTI organizations, but no such organizations were known.

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. Negative HIV tests are required for some foreign citizens requesting a visa or entry to the country.

Other Societal Violence or Discrimination

Chinese citizens experienced some social discrimination. The weekly newspaper sometimes published cartoons negatively depicting Chinese people, and Chinese or other people of Asian descent have been victims of robbery and assault based on their appearance. The police did investigate these crimes and the Chinese community has access to the justice system.

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 range from 35 months to 10 years in prison and fines from \$5,000 to \$10,000 (the U.S. dollar is the official currency). These 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 Child Rights Act of 2015 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 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 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. 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. 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 the employer receives government authorization.

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 health and safety inspections of workplaces. The office is empowered to do so, but does not have dedicated personnel to carry out inspections. The law provides no protections for informal sector workers, 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.