

MARSHALL ISLANDS

EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President Jurelang Zedkaia. On November 21, voters elected the Nitijela (parliament) in generally free and fair multiparty elections. The Nitijela, almost evenly divided between the two dominant political factions, is scheduled to elect a new president in January 2012. Security forces report to civilian authorities.

The government continued to address human rights challenges including 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. Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. The jail is built into the police station and security is minimal. The walls are built of simple concrete blocks with the rebar exposed. There is no

regular maintenance of the prison, and conditions continued to deteriorate. Prisoners have access to potable water.

According to a Ministry of Justice official, as of August the country's only national prison, on Majuro Atoll, held 41 inmates--all male adults. Of these, 38 were convicted prisoners, and three were awaiting trial.

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

Prisoners had reasonable access to visitors and were permitted religious observance. 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.

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

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 continued to limit improvements to only one wing of the Majuro prison. Little progress was made during the year, and sanitary conditions and overall security continued to be poor.

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

Civilian authorities maintained effective control over the police force, and the government has effective mechanisms to investigate and punish abuse and corruption. During the year there was one report of impunity in which police officers reportedly stole more than \$3,000 (the U.S. dollar is the official currency) from the police station's evidence room. The money originally had been confiscated in an earlier raid on private apartments. Nonetheless, there were other reports that stated there was additional money stolen at the time of the raid. No disciplinary action was taken, and at year's end the case remained under investigation.

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.

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 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

Status of Freedom of Speech and Press

The constitution provides for freedom of speech including for members of the 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. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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 movement within the country, 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.

The law does not prohibit forced exile, but the government did not employ it.

Protection of Refugees

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: Executive power is centralized in the president and his cabinet. The legislature consists of the Nitijela and a council of chiefs (Iroij), the latter of which is an unelected body and serves a largely consultative function dealing with custom and traditional practices. National elections were held on November 21 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 health, 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 national election, seven women ran, and one was elected. Several women served in prominent appointed government positions, including those of minister, secretary of health, secretary of foreign affairs, director of the Social Security Administration, banking commissioner, and director of the Environmental Protection Agency.

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. Official Corruption and Government Transparency

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 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.

Public officials are not subject to financial disclosure laws. The Attorney General's Office is responsible for investigating cases of alleged corruption.

During the year, Kenneth Kedi, minister of transportation and communication, pled no contest to three misdemeanor charges of misconduct in public office and petty larceny, the first time a high-level official had been indicted for corruption. The

government dropped seven other felony charges related to improper use of public funds in a plea bargain. Minister Kedi remained in office after paying a \$1,000 fine.

Also during the year, one individual was found guilty on charges made in December 2010 relating to corruption in the government's procurement practices at the Ministry of Finance. This individual, along with alleged co-conspirators in the Ministry of Finance, created fraudulent contracts between the government and private businesses. At year's end the sentencing for this individual remained pending, as did the trials of several alleged co-conspirators whose cases were filed in January.

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, and in-depth 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 the 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.

New legislation passed in September specifically prohibits domestic violence. Previously, the law established criminal penalties for assault and battery, and domestic abuse was sometimes included in these categories. 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 during an unspecified time period. 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.

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.

Women's groups under the NGO Women United Together in the Marshall Islands (WUTMI) continued to publicize women's issues and promote greater awareness of women's rights. Following the killing of a college teacher by her husband in August 2010, WUTMI worked with the government to strengthen legal penalties for domestic violence offenses. Police charged the murder victim's husband in her death, and he was sentenced in August to 20 years in prison. An off-duty police officer was outside the teacher's house when the killing occurred and reported to his on-duty colleagues that he heard screams, and when the fighting subsided he called the police to report that the fight was over. Following this incident local NGOs provided additional training for police on how to respond properly to reports of domestic violence.

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.

Education: There are various fees required for primary and secondary education. Although primary education is legally compulsory, it is not strictly enforced. In order to enter high school, students must take an admission exam, and not all are admitted 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 remains 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.

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/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 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 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 with the general prison population and visited by a doctor. When prison officials protested the disruptions caused by this practice, other arrangements, such as house arrest, were made. 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

As in some previous years, 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 receiving regular racial slurs. Other ethnic Chinese stated that taxi drivers commonly refused to stop for Chinese passengers, although most taxis were owned by Chinese businessmen. The local press reported that attacks on Chinese sailors by youth gangs were common. The government did not take any steps to address this problem.

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.

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 provides for the right of 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 has a limited history and culture of organized labor.

The law does not provide workers 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.

In 2008 public school teachers formed the country's first labor union. During the year, the approximately 30-member union took no public action and did not engage in negotiation or collective bargaining. There were no reports of government restrictions on its activities.

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.

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 exists that allows workers the right to remove themselves from situations that endanger their health or safety, and no legislation provides protection for workers who file official complaints about such conditions. 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 had 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 during 2011 the office did not conduct any inspections of workplaces related to health and safety conditions.

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