

MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional republic with a population of approximately 52,000. In 2007 voters elected the Nitijela (parliament) in generally free and fair multiparty elections. In October 2009 a vote of no confidence in the Nitijela removed Litokwa Tomeing from presidential power, and the Nitijela elected its speaker, Jurelang Zedkaia, as president. Security forces reported to civilian authorities.

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

RESPECT FOR HUMAN RIGHTS

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 constitution prohibits such practices; however, in August, after a police officer was injured during a fight among prisoners at the Majuro prison, police chained four prisoners to the outdoor staircase of the firehouse next to the police station for five days. The prisoners were forced to wear clothing normally worn by firefighters. They were obliged to sleep on the stairs and were released only to use the bathroom facilities. Police released the prisoners from the staircase after the attorney general ordered them to do so. At year's end no disciplinary action had been taken against the officers involved.

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. Security was poor.

During the year police authorities on Ebeye Island concluded their investigation into the 2007 death of a prisoner at a temporary holding facility on the island. The authorities concluded that police were not at fault in the death. However, the case continued to be controversial, as some citizens expressed concern that the investigation was allegedly carried out by the same officers involved in the original arrest of the deceased for public drunkenness.

According to a Ministry of Justice official, as of December the country's only national prison, on Majuro Atoll, held 43 inmates--all male adults. Of these, 39 were convicted prisoners, and four were awaiting trial.

There were no specialized prison facilities for female prisoners, including juveniles; they generally were held under house arrest, although some female offenders were held temporarily in a separate police substation until released to house arrest. Some male juveniles were held temporarily with the general prison population until released 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. The Office of the Attorney General investigated the only reported case of abuse during the year and an official response was published in the only national newspaper.

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; however, 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.

During the year work began on renovations to the Majuro prison. In 2009 prisoners had destroyed newly renovated space at the facility. Improvements during the year

increased the security of the ceiling and strengthened the walls of the prison but did not improve the sanitary facilities.

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. There was one report of impunity involving police during the year concerning a deliberate delay in the response to a domestic violence case, which ended with the woman being stabbed to death allegedly by her husband. No disciplinary action was taken against the officers involved.

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 reports of government officials using their positions to protect family members from prosecution for alleged wrongdoing. Two senior government officials convicted of drunk driving and hitting pedestrians with their cars received only home detention for 60 days, rather than the prison sentences normally imposed for such offenses.

Multiple reports alleged that many crimes reported to police were not investigated or prosecuted.

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, except that the services of the public defender are provided only to citizens.

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 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 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. For most citizens, however, Internet access was limited by small bandwidth, slow connections, and high prices. The International Telecommunication Union reported that approximately 3 percent of the country's inhabitants used the Internet in 2009.

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

For a complete description of religious freedom, please see *the 2010 International Religious Freedom Report* at www.state.gov/g/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 is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its 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, and there were no requests during the year for protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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 serves a largely consultative function dealing with custom and traditional practices.

In October 2009 the legislature elected Jurelang Zedkaia as president after a no-confidence vote removed President Litokwa Tomeing from power.

The most recent elections for the Nitijela were held in 2007. Some ballot boxes were recounted on the initiative of the chief electoral officer, which caused accusations of impropriety and assertions that the boxes should have been reopened only with a court order. A team of independent election observers from the Pacific Islands Forum stated in its initial report that the election, while poorly managed, was conducted in a democratic manner, enabling voters to exercise their will freely. A February 2008 report by a government-appointed independent commission of inquiry placed the blame for the marred election on interference in civil service hiring procedures by the then minister of internal affairs, which led to unqualified individuals managing the election process. By year's end the National Electoral Commission completed the registration process for the scheduled 2011 national election, under which all persons desiring to vote in the election were required to register by district and atoll. This national registration was conducted to resolve some of the reported problems in the previous election.

Individuals and parties can freely declare their candidacy and stand for election. There are no restrictions on the formation of political parties, although many candidates preferred to run independently or loosely aligned with informal coalitions.

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 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. There were a number of women in prominent appointed government positions, including those of secretary of education, minister and 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.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. In October independent auditors reported that they had identified 11 problem areas in the country's 2009 financial statements, an increase from the eight areas identified in 2008. 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. In December the attorney general filed criminal cases alleging corruption regarding government procurement practices at the Ministry of Finance and Ministry of Health, respectively; the cases were pending at year's end.

No high-level elected official has ever been indicted for corruption. Voters tend to look to representatives for financial assistance, which pressured elected officials to use government authority to provide patronage to extended family members and supporters. In October Nitijela Speaker Alvin Jacklick asked his colleagues to eliminate the total of \$16,000 (the U.S. dollar is the national currency) members

receive annually as a "representational allowance." The members rejected this proposal and, instead, raised the allowance to \$20,000. There were also frequent allegations of nepotism in government hiring, especially for teachers, where studies found serious discrepancies between teacher pay and qualifications. Officials also have used their positions to protect family members from prosecution for alleged wrongdoing.

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

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

There were no international human rights NGOs represented in the country. The government permitted visits by UN representatives and other international organizations, but there were none during the year.

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

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. According to the Public Defender's Office, one rape case

from Arno Atoll was pending at year's end; the alleged offender was held in the Majuro prison awaiting trial.

The law prohibits domestic violence, and the government generally enforced the law when incidents were reported to officials. The law establishes penalties for domestic abuse in the same category as assault and battery. 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 October 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.

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. On August 25, following the August 14 killing of a college teacher allegedly by her husband, WUTMI led a march to the courthouse in Majuro to protest domestic violence and ask the government to strengthen legal penalties for domestic violence offenses. Police charged the deceased's husband in her death; he remained in detention awaiting trial as of year's end. 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; however, he called them off when the screaming stopped. Following this incident the government began training for police on how to respond properly to reports of domestic violence.

Sexual harassment is not prohibited by law but did not appear to be a widespread problem.

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 widely available on Majuro and Kwajalein Atolls; however, on remote atolls, often only small infirmaries with minimally trained attendants were available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV. The Ministry of Health provided free contraceptives, with particular

emphasis on reducing the high rate of teenage pregnancy. According to indicators published by the Population Research Bureau, an estimated 45 percent of married women ages 15-49 used some form of contraception. Maternal mortality was approximately 0.1 to 0.2 percent (one reported maternal death in 2009 and two in 2010, with approximately 1,200 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.

Women generally enjoy the same rights as men under family law and in the judicial system. Only women may own land. 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 private sector, many were in low-paying jobs with little prospect for advancement. Men and women had pay equity for all government positions involving similar work.

Children

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 years old.

Education was universal and compulsory to age 18, and the national government did not charge tuition fees, but it was estimated that up to 20 percent of children did not attend elementary school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the annual registration fee, which varied by school but averaged approximately \$10, or incidental expenses. The lack of school lunch programs in public schools was cited as another factor that contributed to absenteeism and poor performance.

Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and child abuse and neglect were considered increasingly 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 or prosecutions during the year.

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.

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 persons in the country, and there were no reports of anti-Semitic acts.

Trafficking in Persons

In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

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. 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. Authorities declared November 21-27 as "Disability Week," and a large event was held on a field across from the capitol to spread awareness of the rights and concerns of persons with disabilities.

National/Racial/Ethnic Minorities

As in some previous years, the authorities appeared to enforce selectively immigration laws against migrants from the People's Republic of China. In December a Chinese national was arrested on arrival at the airport allegedly for outbursts made against immigration officials. The individual was charged with obstructing an immigration officer in the execution of his duty. No other persons were arrested or prosecuted on similar charges.

Some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. The local press reported that attacks on Chinese sailors by youth gangs were common. In July 2009 a gang of local men assaulted a Chinese ship captain in Majuro, but by year's end the perpetrators had not been identified, and no arrests were made. Other ethnic Chinese stated that taxi drivers commonly refused to stop for Chinese passengers, although most taxis were owned by Chinese businessmen.

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 were willing to pay the fee in order 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 homosexual conduct, 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 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. The Right of Association

The law provides for the right of free 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. Of the total workforce of approximately 18,500 persons, an estimated 57 percent worked in the public sector, 21.5 percent in subsistence agriculture, and only 21.5 percent in private industry. In January 2009 public school teachers formed the country's first labor union. Approximately 10 percent of the country's teachers were union members; however, the unwillingness of some teachers to pay union dues reduced the union's membership during the year. The approximately 110-member union did not engage in negotiation or collective bargaining during the year, but there were no reports of government restrictions on its activities.

The law does not provide for the right to strike, and the government has not addressed this issue.

b. The Right to Organize and Bargain Collectively

There is no legislation concerning collective bargaining or trade union organization. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the irregular immigrant Chinese population. The law does not

specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

There is no law or regulation setting a minimum age for employment of children. 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.

e. Acceptable Conditions of Work

The law establishes a minimum wage of \$2.00 per hour for both government and private-sector employees. The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there often were several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. 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. This exemption did not affect a significant segment of the workforce. 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 be at least 50 percent higher on average 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 and overtime payments, and occupational health and safety standards. However, there have been no such actions by the Office of Chief of Labor during the past four years, and the minimum wage has remained the same for over a decade. There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law applies to foreign workers in the same manner as citizens. The Office of the Chief of Labor

did not conduct any inspections of workplace health and safety conditions during the year.