

# MARSHALL ISLANDS 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President David Kabua. In January 2020 the Nitijela, the country's parliament, elected Kabua following free and fair multiparty parliamentary elections in November 2019.

The national police, local police forces, and the Sea Patrol (maritime police) maintain internal security. The national police and Sea Patrol report to the Ministry of Justice; local police report to their respective local government councils. Civilian authorities maintained effective control over national police, local police, and maritime police. Members of the security forces are not known to have committed abuses.

Significant human rights issues included credible reports of serious government corruption and trafficking in persons.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses.

## Section 1. Respect for the Integrity of the Person

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

There were no reports 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**

The constitution prohibits torture and inhuman or degrading treatment. Majuro and Ebeye jail authorities routinely held drunk prisoners naked. Government officials stated they did adopted this practice so that prisoners could not use their clothing to attempt suicide.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses.

#### **Prison and Detention Center Conditions**

Treatment of prisoners and prison conditions were harsh and at times degrading.

**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. Generally, female prisoners in the capital were held under house arrest, which involved taking away their passports and confining them to their homes at night. According to jail guards, in a few isolated incidents, women arrested for driving under the influence were held with male prisoners for 24 to 48 hours, usually over a weekend or local holiday, when it was not possible to process them quickly enough to put them immediately under house arrest.

Jail guards also reported that juveniles were sometimes kept in the prison for brief periods but were separated from the adult population.

A chief complaint in the Majuro jail was the lack of adequate ventilation. Prisoners were held in cramped cells with no air conditioning, windows, or fans, while the temperature outside was usually above 90 degrees. Prisoners had to supply their own electric fans. Lighting in cells was inadequate; prisoners had to supply their own lamps or other light sources. The facility was unsanitary; the guards reported there were no janitors, but prisoners were given cleaning products.

The jail in Ebeye on Kwajalein Atoll, attached to the courthouse, is the only detention facility in the country other than the Majuro jail. It is primarily a short-term lockup for the intoxicated, as well as for offenders waiting for their first court

appearance. Observers have described conditions as degrading; Ebeye was supposed to send all sentenced prisoners to Majuro jail, while others are released on bail until they receive their hearing.

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.

**Administration:** Although authorities permitted inmates to submit complaints about their treatment without censorship and investigated credible allegations of inhumane conditions, there were no complaints of physical abuse submitted during the year. On-duty guards often left their posts during the lunch hour.

**Independent Monitoring:** The government permits prison visits by independent human rights observers and by religious groups visiting imprisoned members throughout the year.

#### **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 or her arrest or detention in court, and the government generally observed these requirements.

##### **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 of the legality of their detention. Authorities generally respected this right and informed detainees promptly of the charges against them.

There was a functioning bail system, 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 authorities can arrange a hearing, normally the morning after arrest. Detainees were allowed access to a lawyer of their choice and, if indigent, to one provided by the state.

The law stipulates the first court appearance must occur within 24 hours of the first working day after arrest.

### **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.

Most trials are bench trials, in which only a judge hears the case; however, if the penalty for the alleged offense is three or more years in jail, defendants may select either 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. They may question prosecution witnesses and present their own witnesses. Defendants may not be compelled to testify or confess guilt. Defendants have the right to appeal. These rights apply equally to all defendants.

#### **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 the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

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

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

#### **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 peaceful assembly and association, and the government respected these rights.

### **c. Freedom of Religion**

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

### **d. Freedom of Movement and the Right to Leave the Country**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government implemented strict travel restrictions related to the COVID-19 outbreak.

### **e. Status and Treatment of Internally Displaced Persons**

Not Applicable.

### **f. Protection of Refugees**

**Access to Asylum:** The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The country has no history of receiving refugees or asylum seekers.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government, including 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 12 traditional clan chiefs.

### **Elections and Political Participation**

**Recent Elections:** The most recent national legislative elections took place in 2019 and were generally regarded as free and fair, although a lawsuit was filed in one electoral district alleging vote buying and fraud.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process; two of 33 members of the legislature elected in 2019 were women, and one out of 33 mayors were women. Traditional attitudes of male dominance (men generally preferred to women as candidates), women's cultural responsibilities and traditionally passive roles, and the generally early age of pregnancies created hurdles for women to obtain political qualifications or experience.

## **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. Freedom House reported that corruption was a chronic problem, particularly in foreign aid allocation, government procurement, and transfers, and that high-ranking public officials were rarely prosecuted for corruption.

**Corruption:** The Attorney General's Office had two ongoing cases related to government corruption as of September. Separately, the Attorney General's Office issued two actions to government officials on behalf of the Auditor General to ensure compliance. This included a request for documents relating to an audit and one search warrant. Credible evidence suggested problems with government officials colluding in goods being smuggled into the country.

A foreign government halted a substance abuse and mental health grant due to questions surrounding more than one million dollars of unaccounted spending of program funds. An audit revealed the unaccounted expenditures, and the Ministry of Finance has not provided an acceptable account of these missing funds.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Domestic and international human rights groups generally 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 and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** Rape, including by a spouse, is a crime with a maximum penalty of 25 years' imprisonment for first-degree sexual assault; the

law is gender neutral, although there have been no cases of men alleging rape. Domestic violence is also a crime. The law seeks to stigmatize it, to ensure investigation of incidents and the prosecution and punishment of perpetrators, and to provide support for survivors. Complainants can file for either a temporary or a permanent protective order, which requires that the alleged perpetrator keep a distance of 150 feet from the complainant. Temporary protective orders have a duration of 28 days. Permanent protective orders remain in effect until the complaint is withdrawn. The law also requires all citizens to report suspected domestic violence.

The police response to allegations of rape and domestic violence was intermittent, although there is a police domestic violence unit with both an investigative and community outreach role. A lack of resources and training limits the capacity of local police to respond to and assist victims. The Attorney General's Office prosecutes rape cases brought to its attention. Prosecutions for domestic violence were sporadic, and awareness of the law was low outside the capital. A general lack of capacity and resources hindered the prosecution of rape and domestic violence cases. Court rules protect women during testimony in rape cases, primarily by shielding the victim as witness from the accused, but human rights advocates reported hesitancy among victims to report these crimes to the police despite awareness-raising efforts.

Various studies have suggested sexual violence of all types is common but frequently unreported. A 2017 study by the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) ascribed the high rate of domestic violence to patriarchal social norms that place women in a subordinate cultural role. According to the study, most citizens believed violence against women was justified in many situations. In 2018 the World Health Organization estimated that 38 percent of ever-married or partnered women ages 15 to 49 had experienced intimate-partner violence in their lifetime, and 19 percent had experienced it in the previous 12 months.

Government health offices provided limited counseling services when spouse or child abuse was reported, but there were no government shelters for domestic violence victims. NGOs continued efforts to raise awareness of domestic violence through marches and information sessions. WUTMI partnered with government



and other donors for its *Weto in Mour* (A Place of Life) Violence against Women and Girls Support Service, which provided survivors with safe accommodations, basic necessities, and transport fares to enable them to attend legal appointments. The nonprofit Micronesian Legal Services Corporation offers free legal services to victims to obtain a protective order.

**Sexual Harassment:** Sexual harassment is a crime, defined as unwelcome conduct of a sexual nature that makes a person feel offended, humiliated, or intimidated. The law was generally not well enforced.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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. Parents or guardians must provide consent for medical treatment affecting reproductive health for minors.

The government provided sexual and reproductive health services to sexual violence survivors, including emergency contraception.

**Discrimination:** Women generally enjoyed the same legal rights as men. The inheritance of property and traditional rank is matrilineal on most atolls, although control of property was often delegated to male family members. Tribal chiefs, customarily the husband or eldest son of the female landowner, are the traditional authorities in the country. The government generally enforced these rights.

Women are represented in the workforce in proportion to their share of the general population. There is no law on equal pay for equal work; however, equal pay was in effect for government employees.

## **Systemic Racial or Ethnic Violence and Discrimination**

No laws specifically address the protection of members of racial or ethnic minorities or groups from persecution. The constitution provides equal protection and freedom from discrimination for all persons and prohibits the creation of laws

or judicial actions that discriminate against any person based on race, color, religion, language, gender, political opinion, place of birth, national or social origin, family status or descent.

## **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 reaching age 18. 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 compulsory beginning at age five, the government did not strictly enforce the law. The law does not specify an age at which students may drop out of school. 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. School enrollment rates were 51 percent for boys and 49 percent for girls.

**Child Abuse:** Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low. Convictions for violations are punishable by a maximum of 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 for making such a report. Child abuse and neglect remained common.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage is 18 years for both men and women. Marriage before age 18 requires parental consent. According to the UN Population Fund database, 26 percent of women ages 20-24 were married before age 18. There were no known government measures to prevent or mitigate early marriage.

**Sexual Exploitation of Children:** Sexual relations are illegal for boys younger than age 15 and for girls younger than age 16. The country's statutory rape law, which provides penalties of up to 25 years' imprisonment for violators, was largely unenforced. The law criminalizes the exploitation of children, including child sex trafficking, child pornography, and other forms of sexual exploitation, and prescribes penalties of up to 20 years' imprisonment, a fine, or both. The law

stipulates authorities may not punish child victims of sexual exploitation and that these victims should have access to support services. The law was generally enforced, although reports of child sexual exploitation persisted.

**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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.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 <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

The constitution states 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. Under the law persons with disabilities have equal rights.

Persons with physical, sensory, intellectual, and mental disabilities faced difficulties in obtaining employment and accessing health care and other state services.

There were no specific 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 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.

There were no reports of violence against persons with disabilities.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

Neither the constitution nor law provides specific protection against discrimination for lesbian, gay, bisexual, transgender, queer, or intersex persons.

## **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 persons to form and join independent labor unions. The law neither provides for nor prohibits collective bargaining or the right to strike. The law does not specifically prohibit antiunion discrimination, nor does it require the reinstatement of workers fired for union activity.

Given the absence of unions or worker organizations, there were no reports of government enforcement of laws respecting their establishment or operation. Legal penalties are commensurate with those for other laws involving denials of civil rights, such as discrimination.

Independent trade unions did not exist, although there were two NGOs promoting the rights of workers.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits and criminalizes all forms of forced labor and prescribes penalties that are commensurate with those for other analogous serious crimes, such as kidnapping.

The government effectively enforced the law, conducting workplace inspections that did not yield any instances of forced labor.

There were reports some foreign fishermen were subjected to conditions indicative of forced labor on ships in Marshallese waters.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **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 younger than age 18, including in the worst forms of child labor, child begging, and child domestic work. The government effectively enforced the law. Government inspections found no evidence of child labor. Penalties for child labor were commensurate with those for other analogous crimes such as kidnapping.

Children typically did not work in the wage economy, but reports persisted that it was common for them to assist their families in fishing, agriculture, retailing, and other small-scale enterprises, particularly in the subsistence economies of the more remote atolls where copra production can take children from school and may reduce educational outcomes. The government reported it found no evidence of this during its inspections.

### **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. There were no formal complaints of employment discrimination during the year. There were no legal restrictions against women in employment. No law mandates equal pay for equal work; government employees receive pay equity. Under the law citizens receive preference in hiring, and noncitizen workers are hired only to supplement the local workforce 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 paid the fee to hire technically skilled labor, which was not widely available in the country.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law establishes a minimum wage which is not above the poverty line. 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. The cabinet may also exempt qualified export-oriented industries from minimum wage laws. 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. The law provides for a standard 40-hour workweek but places no restrictions on the amount of overtime that may be worked. Penalties for wage and hour violations were not commensurate with those for similar crimes.

**Occupational Safety and Health:** Occupational health and safety standards are generally appropriate. 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 Department of Labor conducts inspections related to wages, hours, and occupational safety and health. Inspectors have the right to conduct unannounced inspections and issue sanctions. There were sufficient inspectors but limited resources made it insufficient to ensure compliance. The government did not effectively enforce the law.

**Informal Sector:** Many households on the outer islands sell copra (dried coconut kernels), handicrafts, or fish to survive.