

MARSHALL ISLANDS 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President David Kabua. On January 6, 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: serious restrictions on freedom of movement related to the COVID-19 pandemic; 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, Including Freedom from:

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 this so 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.

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 was often overcrowded, and observers have described conditions as degrading; Ebeye was supposed to send all prisoners to Majuro jail but did not always do so because of the high cost of transportation.

Authorities allowed prisoners to leave facilities periodically on work details or for meals at home. Police escorted prisoners needing medical treatment to the Majuro hospital where they received free treatment.

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. There were no known cases of incommunicado detention.

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, Including:

a. Freedom of Expression, Including for the Press

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

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports 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

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.

Foreign Travel: The government did not allow its citizens to return to the country because of the COVID-19 outbreak. Several citizens considered to have essential jobs were allowed to return. The government also restricted its citizens from travelling abroad during part of the outbreak, with limited exceptions granted by the government.

e. Status and Treatment of Internally Displaced Persons (IDPs)

U.S. nuclear testing from 1946 to 1958 displaced an estimated 14,000 individuals (original evacuees and their descendants). Some relocated to the United States, but most remained as IDPs residing in several locations across the country, including Kili Island and Ejit Islet in Majuro Atoll. IDPs did not suffer societal discrimination and received substantial government support.

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.

g. Stateless Persons

Not applicable.

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 November 2019 and were generally regarded as free and fair, although a lawsuit was filed in one electoral district alleging vote buying and fraud. The case was awaiting the lifting of the travel ban to proceed.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process; 6 percent of members of the legislature were women. During the previous election cycle, women held 9 percent of legislative seats. 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.

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

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and although the government generally implemented the law effectively, officials sometimes engaged in corrupt practices with impunity. 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 issued three indictments of public officials for corruption and dismissed the chief of immigration who was under investigation. Credible evidence suggested problems with government officials colluding in goods being smuggled into the country.

Financial Disclosure: Public officials are required to report any gifts in excess of \$100; there are no other financial disclosure requirements.

Section 5. Governmental Attitude Regarding 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, Societal Abuses, and Trafficking in Persons

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. There were two reported cases of sexual assault and conviction in a domestic murder case.

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.

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, formed to advance women's rights, partnered with government and other donors for its *Weto in Mour*: 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 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.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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.

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 under the age of 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 unsubstantiated 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. Relevant law is designed to implement the UN Convention on the Rights of Persons with Disabilities and gives persons with disabilities equal rights under the law.

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, and 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.

The government enforced freedom of association laws. Penalties take the form of fines and were commensurate with those for other laws involving denials of civil rights, such as discrimination.

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

The government effectively enforced the law, conducting investigations 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 exploitation 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. 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 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 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 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. 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 workday of eight hours but places no restrictions on the amount of overtime that may be worked. 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.

Occupational health and safety standards are generally appropriate. 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.

The government did not effectively enforce the law. Penalties for wage and hour violations were not commensurate with those for similar crimes. There were no policy recommendations or political initiatives by the Board of Inquiry during the year, and the board did not conduct any health and safety inspections of workplaces. The board is empowered to do so, but it does not have dedicated inspectors to carry out inspections to enforce sufficient compliance.