



U.S. DEPARTMENT of STATE

Marshall Islands

Country Reports on Human Rights Practices - 2001

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The Republic of the Marshall Islands is a self-governing nation under the Compact of Free Association with the United States. The Constitution provides for free and fair elections and executive and legislative branches. The legislature consists of a 33-member Parliament (Nitijela), as well as a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. The President is elected by majority Nitijela vote, and he appoints his Cabinet from its membership. The Constitution provides for an independent judiciary; however, past governments have attempted to influence the judiciary.

Under the Compact of Free Association, the United States is responsible for defense and national security, and the country has no external security force. The national and local police forces have responsibility for internal security. These agencies honor constitutional and legal civil rights protections in executing their responsibilities.

The population of approximately 51,000 is of Micronesian origin and concentrated primarily on the Majuro and Kwajalein Atolls. The economy depends mainly on transfer payments from the United States. Coconut oil and copra exports, a small amount of tourism, import and income taxes, an open ship registry, a tuna preparation plant (locally referred to as tuna loining), ship chandelling, and fishing licensing fees generate limited revenues.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. There were occasional instances of denial of due process for detainees. Violence against women and child abuse were problems.

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 of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution forbids such practices, and there were no reports that government officials employed them.

Prison conditions, while Spartan, meet international standards, and the Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions.

Nonetheless, the Chief Justice of the High Court admitted in September that arbitrary detentions occur. There were several reported cases of arbitrary detention lasting over 24 hours in which persons were denied their rights to be charged or released within the specified time, or to be informed of the charges against them. It appears that such violations are due mainly to inefficiency. The courts and the Attorney General's office are working with the police to improve communication between the courts and police when suspects are detained.

Families have access to detainees, and detainees have the right to lawyers of their choice. There is a functioning system of bail, and the State will provide a lawyer if the defendant is indigent.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in the past, the Government has attempted to influence judicial matters through legislative or administrative means.

The employment of a foreign national former high court judge, who had disagreements with the previous government, was terminated prematurely in June 1999, but he was appointed to the Supreme Court in May 2000. In his January 2000 inaugural address, President Note pledged to protect the independence of the judiciary, following the previous 4 years during which three chief justices resigned or were terminated by the Government. During the year, there were no known incidents of executive pressure on the judiciary. There are few citizens trained in the law. Therefore, the judicial system relies almost entirely on foreign citizens to serve on the judiciary and as public prosecutors and defenders. Since President Note was elected, the Government increased judges' salaries by 20 percent to enhance its ability to attract and retain qualified judges.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforces this right.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respects 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 respects these rights in practice. In the past, government influence led to occasional self-censorship by the media in areas of political or cultural sensitivity; however, there were no known instances of self-censorship during the year.

A privately owned weekly newspaper publishes articles and opinions in both English and Marshallese.

There are two radio stations, one of which is government owned; the other is religious and offers news broadcasts from the Voice of America, the British Broadcasting Corporation, and Radio Australia. In the past, live broadcasts of the legislative session were interrupted when remarks were critical of the Government; however, this did not occur during the year. A government station broadcasts public service announcements. A cable television company broadcasts a variety of foreign news and entertainment programs and occasional videotaped local events.

The Government does not control or limit Internet access.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

Beginning in 2000, the Government launched an alien registration drive to counter alleged increases in illegal entries by Chinese and other foreign nationals. During the year, the Government periodically conducted "sweeps" to locate and ultimately deport illegal aliens. In February the Government enacted regulations that reserve certain types of businesses only to citizens. In 1996 the Government sold "investment" passports to approximately 3,000 non-Marshallese to attract foreign investment; however, it halted this practice in 1997, following allegations of abuses and fraudulent passport sales (which conveyed citizenship). These "investment" passports are expiring, and the Government is examining its passports more closely and denying renewal in some cases, for example, if residency cannot be proved.

Although not a signatory, the Government adheres to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperates with the U.N. High Commissioner for Refugees. There are no recent reports of refugees. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. Executive power is centralized in the President and his Cabinet. This group dominates the legislature as well. The Nitijela (Parliament) and mayors are elected by secret ballot every 4 years by citizens 18 years of age and older. The last Nitijela election was held in November 1999. On January 3, 2000, President Kessai Note was selected unopposed by the Nitijela from among its 33 members. The President subsequently selected 10 cabinet ministers from among the Nitijela members. There are no restrictions on the formation of political parties. Political activity by foreigners is prohibited.

The percentage of women in government and politics does not correspond to their percentage of the population; however, there are no legal impediments to women's participation in government and politics. Women's cultural responsibilities and traditionally passive roles and the generally early age of pregnancies can make it difficult for women to obtain political qualifications or experience. Nevertheless, a woman was elected to the Nitijela in the 1999 elections. Society is matrilineal, and those men and women who exercise traditional leadership and land ownership powers derive their rights either from their own positions in the family, or from relationships deriving from their mother's and sister's lineage. However, urbanization and the movement of the population away from the lands that they control is leading to a decline in traditional authority exercised by women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

While there are no official restrictions, few local nongovernmental human rights organizations have been formed.

The women's NGO WUTIMI works on women's, children's, and family issues and is playing an increasing role in discussion of social issues. One of the WUTIMI leaders, for example, has been named to the Compact Renegotiation Team.

There is a government-sponsored committee to establish a local Red Cross chapter, and the Government hosted a Red Cross Conference on the Geneva Conventions in June. On October 4, the Nitijela ratified the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the International Convention on the Elimination of All Forms of Racial Discrimination.

No international human rights organization has expressed interest or concern or visited the country.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government observes these provisions.

Women

Spousal abuse is common. Domestic violence is not condoned in society, and most assaults occur while the assailant is under the influence of alcohol. The Government's health office provides counseling for reported spouse and child abuse cases but advises that many cases go unreported. Rape and assault are criminal offenses, but women involved in domestic violence are reluctant to prosecute spouses in the court system. Women's groups under the WUTIMI umbrella publicize women's issues and attempt to create a greater awareness of the rights of women. Violence against women outside the family occurs, and women in urban centers risk assault by going out alone after dark.

There is no legal age of consent; the law criminalizes only "forced" rape and does not specify sexual assault, domestic violence, and sexual abuse. There was some national debate regarding criminalizing sexual assault, domestic violence, and sexual abuse; however, the problem is complicated by cultural norms against talking about these subjects. In August two young men sexually assaulted an infant; they were charged with child abuse and sodomy. At year's end, both were free on bail awaiting further judicial action.

In September the Parliament passed a law making prostitution illegal; however, it exists on the Majuro and Kwajalein Atolls. The only truly organized prostitution is run by and caters to foreigners, primarily the crews of foreign fishing vessels. The Government is unaware of violence against prostitutes, although it assumes that it exists. The law does not prohibit sex tourism. There are no known instances of trafficking in persons.

Sexual harassment is not prohibited by law; however, it is not regarded as a problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. However, while women workers are very prevalent in the private sector, many of them are in low-paying jobs with little hope of advancement.

Children

The Government is committed to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education is free, compulsory, and universal through eighth grade; there is no difference between the attendance rates of boys and girls.

It is estimated that up to 20 percent of elementary school age children do not attend school on a regular basis. The Government does not enforce the compulsory education law due to a lack of classrooms and teachers. The Government's enrollment report indicates that only two-thirds of those completing eighth grade attend high school. Of that number, 50 percent eventually graduate.

The Government provides subsidized essential medical services for all citizens, including children.

Child abuse and neglect are criminal offenses; however, the awareness of children's rights remains low among the general population. 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. However, there are few reports and few prosecutions. Child abuse and neglect were considered to be on the increase.

Persons with Disabilities

There is no apparent discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no building codes, and there is no legislation mandating access for persons with disabilities.

There are approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrate dangerous behavior, they are imprisoned and visited by a doctor.

There were no reports of discrimination against persons with mental disabilities.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of free association in general, and the Government interprets this right as allowing the existence of labor unions, although none has been formed to date. The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

There were no strikes during the year. In spite of the absence of legislation on strikes, during 1999 there were strikes at the government hospital and the government-owned airline. Although the Attorney General's Office indicated that some of the strikers apparently were in violation of national labor laws, there was no retaliation against any of the strikers.

b. The Right to Organize and Bargain Collectively

There is no legislation concerning collective bargaining or trade union organization. However, there are no impediments to the organization of trade unions or to collective

bargaining. Wages in the cash economy are 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 is no evidence of its practice among citizens of the country. With the increasing presence of illegal aliens and the possibility that there is trafficking in persons, it is possible that forced or compulsory labor exists; however, there have been no specific reports of the problem.

During the year there were two separate reports of forced labor involving one Nepalese and one Sri Lankan citizen; one was a domestic worker and the other worked in a restaurant. The case of the restaurant worker was settled in a civil suit in January, and he returned to his home. The domestic worker's case was awaiting review by the Attorney General's Office at year's end; he continued to work in the country.

The law does not specifically prohibit forced and bonded labor by children; however, such practices are not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment

Children typically are not employed in the wage economy, but some assist their families in fishing, agriculture, and other small-scale domestic enterprises. There is no law or regulation setting a minimum age for employment of children. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

The law does not prohibit specifically forced and bonded labor by children; however, such practices are not known to occur.

e. Acceptable Conditions of Work

A government-specified minimum wage is established by law, but it is not adequate to maintain a decent standard of living for a worker and family; however, in this subsistence economy, extended families are expected to help less fortunate members, and there are often several wage earners in each family. The minimum wage for all government and private sector employees is \$2.00 per hour. The U.S. dollar is the national currency. The Ministry of Resources and Development oversees minimum wage regulations, and its oversight was regarded as adequate. Foreign employees and Marshallese trainees of private employers who have invested in or established a business in the country are exempt from minimum wage requirements. This exemption does not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses are closed, and persons generally refrain from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. 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.

Foreign workers are protected by the law in the same manner as citizens.

f. Trafficking in Persons

There are no specific laws concerning trafficking in persons; however, there is increasing suspicion that foreign-born Marshallese passport holders may be using the country as a staging point for trafficking. The Immigration Ministry, Attorney General's Office, the police, and religious communities all work on the problem. The eventual destination and fates of undocumented alien residents and prostitutes are unknown. There are no documented cases of nonresident aliens or prostitutes being trafficked to, from, or within the country during the year.