

Gender and
Statelessness



Marshall Islands

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

A child born in Marshall Islands becomes a citizen if either of the child's parents are citizens of the Marshall Islands, or if the child is not entitled to become a citizen of any other country.¹

Children born outside of the country

A child born outside the Marshall Islands becomes a citizen if either of the child's parents are citizens of the Marshall Islands.²

ADOPTED CHILDREN

In the Constitution, all references to "child" include an adoptive child and "parent" includes adoptive parent.³ All constitutional provisions applying to biological children therefore also apply to adoptive children.

The *Citizenship Act* also provides for citizenship by adoption which is not covered by the constitutional provisions. Any person who is not a citizen may become a citizen of the Marshall Islands by registration. To do so the High Court must be satisfied of the following:

¹ *Constitution of the Republic of the Marshall Islands* 1979 Art XI s 1 ('Constitution').

² *Ibid* Art XI s 1(2)(a).

³ *Ibid* Art XIV s 1 definition of "child"; definition of "parent".

- The person was adopted under the laws of the Marshall Islands as a child by a person who was a citizen of the Marshall Islands;
- The person has been a resident of the Marshall Islands for a period of not less than five years; and
- If the person is 18 or over, has taken an oath of allegiance to the Marshall Islands and has renounced any other citizenship.⁴

FOUNDINGS

The Marshall Islands citizenship legislation does not make reference to citizenship for foundlings.

Foundlings are however mentioned in the *Births Deaths and Marriages Registration Act*. Where a living newborn child is found, it is the duty of the person finding the child to provide the requisite information to the Registrar within one month from the date the child was found.⁵

REGISTRATION OF THE BIRTH OF A CHILD

Every child born in the Marshall Islands is to be registered by the Registrar.⁶ It is the duty of the father and mother of the child, or in their absence, of such other qualified informant, to give the birth information to the

⁴ *Citizenship Act 1984* s 409 ('Citizenship Act').

⁵ *Births Deaths and Marriages Registration Act 1988* s 409.

⁶ *Ibid* s 407(1).

Registrar within ten days from the date of birth.⁷

LOSS AND RENUNCIATION OF CITIZENSHIP

The Nitijela⁸ has power under the Constitution to make provision for the deprivation or renunciation of any person of Marshall Islands citizenship.⁹

Under the *Citizenship Act* a person may not renounce their citizenship unless they already hold some other nationality or citizenship; or the renunciation is for the purpose of obtaining some other nationality or citizenship.¹⁰ Special provisions are made where a person is prevented by the law of a foreign country from renouncing foreign citizenship.¹¹

A Marshallese citizen is subject to loss of citizenship where the person has reached full age and capacity, and has obtained the nationality or citizenship of another country by voluntary act (other than marriage).¹²

NATURALISATION FOR SPOUSE OF CITIZEN

Naturalisation by marriage is not provided for in the Marshallese citizenship legislation.

A person of full age and capacity may apply to the Cabinet to become naturalised as a Marshall Islands citizen.¹³ A number of requirements for naturalisation are set out, including (but not limited to):

- Having been ordinarily resident in the Marshall Islands in the 10 years immediately prior to the application;
- Being of good character;
- Able to speak and understand conversational Marshallese;

- Having means of support for oneself and dependents; and
- Having renounced any other citizenship.¹⁴

An applicant may request that a child is named in the application to become a citizen by naturalisation, provided the application includes a statement by the other parent or legal guardian (if any) that he or she also wishes the child to become a citizen.¹⁵

DUAL NATIONALITY

The *Constitution of the Marshall Islands* gives the Nitijela power to make provision for deprivation of citizenship of any class of persons who are or have become citizens of another country, otherwise than by marriage.¹⁶

As noted above, the *Citizenship Act* states that a person of full age and capacity is subject to loss of citizenship on the ground that they have obtained the nationality or citizenship of another country by a voluntary act (other than marriage).¹⁷ Special provisions are made where a person is prevented by the law of a foreign country from renouncing foreign citizenship.¹⁸

GENDER EQUALITY ACHIEVED

Gender equality with respect to citizenship was achieved in the Marshall Islands with the introduction of the *Citizenship Act* in 1984. Due to difficulties accessing historic legislation, it is unclear if gender discrimination existed with respect to Marshallese citizenship prior to that date.

It is to be noted that the *Constitution* and *Citizenship Act* both use the gender pronoun “he” alone in many provisions.

⁷ Ibid s 408.

⁸ The Nitijela is the Marshall Islands Parliament.

⁹ *Constitution* (n 1) Art XI s 3.

¹⁰ *Citizenship Act* (n 4) s 408.

¹¹ Ibid s 408.

¹² Ibid s 406.

¹³ Ibid s 403(1).

¹⁴ Ibid s 403(2).

¹⁵ Ibid s 403(3).

¹⁶ *Constitution* (n 1) Art XI s 3(d).

¹⁷ *Citizenship Act* (n 4) s 406.

¹⁸ Ibid s 408.

GENDER AND STATELESSNESS RISKS

Marshall Islands citizenship legislation does not contain explicit gender discrimination. It also reduces risk of statelessness for children born in Marshall Islands by providing that a child born in the Marshall Islands becomes a citizen if the child is not entitled to become a citizen of any other country.¹⁹

One gap to be filled in the legislation is the lack of explicit reference to citizenship for foundlings. Allowing dual citizenship may also be important for reducing risk of statelessness and allowing the conferral of citizenship by both of a child's parents.

UNHCR Representation in Canberra

Note: *This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.*

¹⁹ Constitution (n 1) Art XI s 1.