

MICRONESIA 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Federated States of Micronesia (FSM) is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Individual states enjoyed significant autonomy, and their traditional leaders retained considerable influence, especially in Pohnpei and Yap. The elected unicameral national Congress selects the president from among its four members elected from at-large state districts. After 2011 elections, Congress elected Emanuel Mori as president for a second consecutive term. Observers generally considered the elections free and fair. Authorities maintained effective control over the security forces.

Discrimination and violence against women and widespread corruption continued to be the most prevalent human rights problems.

Other reported human rights problems included judicial delays, domestic violence, trafficking in persons, and child neglect.

In some instances the government took steps to punish officials and their friends who committed abuses, but impunity was a problem, particularly in cases of alleged corruption.

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, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: At year's end the four states' prisons held 132 inmates, all male, including 22 pretrial detainees, in facilities with a total capacity of 150 inmates. Authorities usually held pretrial detainees in the same facilities but separately from convicted prisoners. Due to a lack of medical facilities and/or community-based support services for treating persons with mental disabilities, the government housed four individuals with mental disabilities but no criminal background in jails.

There were no separate juvenile detention facilities, but two of the four states had designated cells for juveniles. The states seldom incarcerated juvenile offenders. The families of the perpetrator and the victim usually resolved crimes by juveniles in a traditional, mediation-based manner. There were four juveniles incarcerated during the year.

There were no deaths reported in prisons. Prisoners and detainees had access to potable water and adequate food.

Administration: Recordkeeping was adequate, and authorities sometimes used community service as an alternative to prison sentences for nonviolent offenders. There was no prison ombudsman to respond to complaints. Prisoners and detainees had reasonable access to visitors, and officials permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, but they rarely investigated such allegations.

Independent Monitoring: The government has the obligation to investigate and monitor prison and detention center conditions, but no information was available publicly on whether it did so during the year. There was no information whether independent monitoring occurred.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The national police are responsible for enforcing national laws, and the Department of Justice (attorney general) controls this force. The four state police forces are responsible for law enforcement in their respective states and are controlled by the directors of public safety of each state. Civilian authorities maintained effective control over the national and state police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

Warrants are required for arrests, and authorities advised detainees promptly of the charges against them. Authorities must bring detainees before a judge for a hearing within 24 hours of arrest, a requirement generally observed. Courts released most arrested persons on bail. Detainees generally had prompt access to family members and lawyers. Not all detainees who requested help from the public defender's office received adequate legal assistance because of lack of funding and properly trained lawyers. Authorities held no suspects incommunicado or under house arrest.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The law provides for the right to a fair trial, and the judiciary generally enforced this right. Trials are public, although juveniles are allowed closed hearings. Judges conduct trials and render verdicts, rather than juries. Defendants enjoy a presumption of innocence and cannot be compelled to testify or confess guilt. They have the right to counsel and to adequate time and facilities to prepare a defense. They also have rights to be informed promptly and in detail of the charges, with free interpretation if necessary; present witnesses and evidence; confront witnesses against them; have access to government-held evidence; and appeal convictions. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations. The Supreme Court is responsible for hearing lawsuits seeking damages for, or cessation of, human rights violations.

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

The constitution prohibits such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of expression but does not refer specifically to speech or the press, but the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Internet access was available in all four states, but service was slow with frequent outages. According to the International Telecommunication Union, approximately 28 percent of the population used the internet in 2013.

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 the freedoms of assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of internal movement. Other laws allow for freedom of foreign travel, emigration, and repatriation. The government generally respected these rights.

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. There were no formal requests for asylum or refugee status during the year.

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

The constitution and law provide citizens the ability to change their government through free and fair elections, which they exercised through elections based on universal suffrage.

Elections and Political Participation

Recent Elections: National congressional elections held in March 2011 generally were free and fair.

Political Parties: There are no restrictions on the formation of political groups, but there were no significant efforts to form organized political parties, and none existed. Candidates generally sought political support from family and allied clan groupings, religious groups, and foreign-citizen communities.

Participation of Women and Minorities: Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal

and state level but were scarcer in the upper ranks. At year's end, women held the cabinet-level positions of secretary of health and social services, secretary of justice, and budget director. There was one female associate justice on the national Supreme Court and one female associate justice on the Pohnpei State Supreme Court. The country's first female ambassador served as permanent representative to the United Nations. There were two elected women in the Pohnpei State legislature. There were no women in the other state legislatures or the national legislature.

To the extent that the country is a multicultural federation, both the legislature and the executive included persons from various cultural backgrounds.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government sometimes implemented these laws effectively. Officials generally engaged in corrupt practices with impunity.

Corruption: The Attorney General's office within the Department of Justice has primary responsibility for combating government corruption, including investigation and prosecution of individual cases. The office had sufficient resources. It operated independently and actively collaborated with civil society via a hotline operated by the Office of the National Public Auditor (ONPA) to encourage reporting of public complaints of corruption. ONPA referred some corruption cases to the Department of Justice during the year, and the department took action on them.

Financial Disclosure: No laws, regulations, or codes of conduct require income and asset disclosure by public officials.

Public Access to Information: There is no national law providing for public access to government information. The Speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. Information from other branches of government also was accessible; however, loss or mishandling of records occasionally delayed access. There were no reported cases of denial of media access to the government.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although there are no official restrictions, no local groups concerned themselves exclusively with human rights. Several groups addressed problems concerning the rights of women and children, and the government cooperated with these groups.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide explicit protection against discrimination based on race, gender, or language, but societal discrimination against women remained a problem. Kosrae state passed a Family Protection Act, but the other three states have no laws against family violence. All four state governments have laws to implement the national anti-trafficking law enacted in 2012. There are no specific legal protections regarding social status, sexual orientation, or gender identity. There are limited protections for persons with disabilities.

Women

Rape and Domestic Violence: Sexual assault, including rape, is a crime. There is no specific law against spousal rape. Sexual assault involving a dangerous weapon or serious physical or psychological harm to the victim is punishable by up to nine years' imprisonment in Chuuk and 10 years' imprisonment in the other three states, and a fine of up to \$20,000 (the U.S. dollar is the national currency) in Kosrae and \$10,000 in the other states. If neither a dangerous weapon nor serious physical harm is involved, the assault is punishable in all states by up to five years' imprisonment or a fine. Due to social stigma, such crimes were underreported, and authorities prosecuted few cases. The police academy curriculum included programs to train police officers to recognize the problem. According to police and women's groups, there were a number of reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context.

Reports of frequently severe domestic violence continued during the year. Although assault is a crime, there were no specific laws against domestic violence. Effective prosecution of offenses was rare. In many cases victims decided against initiating legal charges against a family member because of family pressure, fear of further assault, or the belief that police would not involve themselves actively in what is seen as a private family problem. Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individual victims, and were addressed by a complex system of familial sanctions. Traditional methods of coping with family discord were breaking down with increasing urbanization, monetization of the

economy, and greater emphasis on the nuclear family. No government entity, including the police, has succeeded in replacing the extended family system or in addressing directly the problem of family violence.

There were no governmental facilities to shelter and support women in abusive situations. Chuuk has a private facility for women's groups, funded by a foreign government. In Yap, a multipurpose facility including a shelter was under construction. The Pohnpei Department of Public Safety's program of domestic violence education included a hotline and training of its officers to handle domestic violence situations. In Pohnpei, there were 26 women's organizations, and a center opened in July 2013 to serve as an office for them.

Female Genital Mutilation/Cutting (FGM/C): FGM/C was not a known practice, and there were no laws forbidding it.

Sexual Harassment: The law does not prohibit sexual harassment, and anecdotal reports suggested it occurred.

Reproductive Rights: 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 contraception, prenatal care, skilled attendance at delivery, and postpartum care were widely available through private and public medical facilities. The government conducted public information campaigns on reproductive health matters through posters and billboards. Other types of local media were not readily available.

Discrimination: Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. The largest employers were the national and state governments, and female employees received equal pay for equal work. Approximately half of the country's formal jobs were in the public sector, with 5,000-plus in state and municipal government positions and approximately 2,500 in national government and government agencies or public enterprises. Societal discrimination against women continued, however, and cultural mores encouraged differential treatment for women. Nonetheless, women were active and increasingly successful in private business. For example, a number of women ran successful retail businesses in all four states. A national women's working group composed of female national government employees, including the secretary of health and social services, existed to advise the government. Additionally, several small nongovernmental organizations (NGOs) were interested in women's problems, particularly those

associated with family violence and abuse. The Women's Interest Section of the Department of Health and Social Services worked to protect and promote women's rights.

Children

Birth Registration: A child acquires citizenship if one or both parents are citizens. Individual states maintain birth records. Kosrae State requires registration within two weeks after a birth. In the other three states, registration takes place for hospital births, but on remote outer islands there are no hospitals, and children are not registered until and unless they come to a main island for education.

Education: By law, education is free and compulsory from age six through age 14 or completion of eighth grade; however, many students left school before that.

Child Abuse: Child abuse is illegal, although the constitution provides for a right of parental discipline. Cultural attitudes regarding parental discipline limited the reporting of abuse, and there were anecdotal reports of child abuse and neglect. The government did not make any efforts to combat child abuse or neglect.

Early and Forced Marriage: The minimum legal age for marriage is 18 for boys and 16 for girls, except that girls under age 16 may marry with parental consent. According to 2010 census data, the mean age of first marriage for the country was 26.5 years. The lowest recorded mean age of first marriage was 20.1 years in the culturally traditional Yap outer islands.

Female Genital Mutilation/Cutting (FGM/C): FGM/C was not a known practice, and there were no laws forbidding it.

Sexual Exploitation of Children: The national law against trafficking in persons sets a maximum penalty of 30 years' imprisonment and a \$50,000 fine for child trafficking. The states' statutory rape laws apply to children aged 13 and below in Yap and Kosrae and age 15 and below in Pohnpei. On September 23, Chuuk State passed a law increasing the age of consent to 18. The maximum penalties vary by state--Chuuk: five years' imprisonment, \$5,000 fine; Kosrae: 10 years, \$20,000 fine; Yap: 10 years, \$10,000 fine; and Pohnpei: five years, \$5,000 fine. Only Pohnpei has a statute prohibiting child pornography. Both Chuuk and Pohnpei have provisions against filming explicit movies of underage children, but Yap and Kosrae have no such provisions. Both Chuuk and Pohnpei impose a penalty of six

months' imprisonment for violations. The government generally enforced these laws when cases became known.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were no known Jewish communities 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 www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination in public service employment against persons with physical disabilities. No law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in private sector employment, education, air travel and other public transportation; access to health care; or provision of other state services (see section 7.d.). Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Many buildings had ramps. There was one elevator in the two-story Pohnpei State government building. No policies or programs ensured access to information and communications for persons with disabilities.

By law children with disabilities have the right to special education and training up to age 21. There were no special education schools. The government provided children with disabilities, including learning disabilities, special education in mainstream schools, and instruction at home if necessary and if foreign funding was available. Such funding was available, but special education programs had some difficulties serving all eligible children, with transportation problems cited as one factor impeding participation.

Due to a lack of facilities and community-based support services for treating persons with mental disabilities, the government housed some individuals with mental disabilities but no criminal background in jails. Authorities provided separate rooms in jails for persons with mental disabilities, and state health

departments provided medication as part of their programs to provide free treatment to all residents with mental disabilities.

The national health services department is responsible for protecting the rights of persons with disabilities but does not provide significant services.

National/Racial/Ethnic Minorities

Each of the country's four states has a different language and culture. Traditionally, the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past, those who came from low-status villages worked without pay for those with higher status in exchange for care and protection from those of higher status. The traditional hierarchical social system has been gradually breaking down, and capable persons from low-status villages could rise to senior positions in society. Nonetheless, the traditional system affected contemporary life. Persons from low-status backgrounds tended to be less assertive in advocating their communities' needs, and authorities sometimes continued to underserve low-status communities.

The national and state constitutions prohibit non-citizens from purchasing land, and foreign investment laws limit the types of businesses they can own and operate. The national Congress granted citizenship to non-Micronesians only in rare cases. There is no permanent residency status. For the most part, however, noncitizens shared fully in the social and cultural life of the country.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law does not criminalize consensual same-sex sexual conduct between adults. There are no laws prohibiting discrimination against lesbian, gay, bisexual, or transgender (LGBT) persons in such areas as employment, housing, or access to education and health care. There were no known reports of violence, official or societal discrimination, or workplace discrimination against LGBT persons. The culture stigmatized public acknowledgement or discussion of certain sexual matters, including sexual orientation and gender identity. It was rare for individuals to identify themselves publicly as LGBT persons.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

Although the law does not specifically provide for the right of workers to join a union, under the constitution citizens have the right to form or join associations, and by law national government employees can form associations to “present their views” to the government without being subject to coercion, discrimination, or reprisals. Although the law does not prohibit workers, including foreign workers, from joining unions, most private sector employment was in small-scale, family-owned businesses or in subsistence farming and fishing, and there were no unions or labor NGOs. No law deals specifically with trade unions or with the right to collective bargaining.

There is no specific right to strike, but no law prohibits strikes. There were no employment-related disputes or demonstrations during the year.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor.

The government generally enforced the law, although resources and inspections were minimal. The national antitrafficking law provides for penalties of up to 15 years’ imprisonment for violators, or up to 30 years if there are aggravating factors. Penalties were sufficiently stringent compared to other serious crimes. To prevent and eliminate forced labor, the government in 2011 and 2012 ratified pertinent conventions, including those on trafficking in persons and the rights of the child.

Also see the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

National and state laws do not establish a minimum age or prescribe limits on hours or occupations for employment of children. There was no employment of children for wages, but children often assisted their families in subsistence farming and family-owned shops.

d. Discrimination with Respect to Employment or Occupation

Labor law provides explicit protection against discrimination in employment or occupation based on race, gender, or language. There are no specific legal protections regarding social status, sexual orientation, or gender identity, HIV

positive status or other communicable diseases, or social status. There are some protections for persons with disabilities, but they are limited in scope.

Discrimination in employment and occupation occurred with respect to disability.

e. Acceptable Conditions of Work

The minimum hourly wage for employment with the national government was \$2.65. All states had a minimum hourly wage for government workers, which was \$2.00 in Pohnpei, \$1.25 in Chuuk, \$1.42 in Kosrae, and \$1.60 in Yap. Pohnpei also had a \$1.75 hourly minimum wage for private sector workers. The tax system monitored the minimum wage effectively. The law requires equal pay for equal work. Statistics were not readily available, but salaried persons were relatively well off. Approximately half of workers were in the informal economy, predominantly in subsistence agriculture and fishing.

National law sets a standard of an eight-hour day and a five-day workweek, with premium pay for overtime. There are no legal provisions prohibiting excessive or compulsory overtime, but such overtime was not a problem.

The Division of Immigration and Labor within the Department of Justice is responsible for enforcing the above standards and has 37 labor inspectors throughout the country. The government generally was effective in its enforcement of these standards and provided sufficient resources for effective enforcement. Working conditions aboard some foreign-owned fishing vessels operating in the country's waters continued to be very poor. Crewmembers reported incidents of injuries, beatings by officers, and nonpayment of salary.

A federal regulation requires that employers provide a safe workplace. Workers can remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation.