

MICRONESIA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Individual states enjoyed significant autonomy and traditional leaders retained considerable influence, especially in Pohnpei and Yap. The elected unicameral congress selects the president from among its four members elected from at-large state districts. In May 2011 Congress reelected Emanuel Mori as president. Observers considered the most recent elections for Congress, held in March 2011, to be generally free and fair, despite technical problems and some allegations of fraud in Chuuk. Security forces reported to civilian authorities.

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

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

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

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, but there were reports of beatings of some persons while in police custody in Chuuk. The case of a foreigner beaten by the then Chuuk State director of police while in custody in 2011 was pending court

action at year's end. The police director, who was removed from office in 2011, was free on bail awaiting trial, scheduled for January 2013.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards.

Physical Conditions: At year's end the four states' prisons held 90 inmates, all male, including 26 pretrial detainees, in facilities with a total capacity of 150 inmates. Authorities usually held pretrial detainees within the same facilities but separately from convicted prisoners. Officials held two inmates with mental disabilities in separate cells, owing to lack of medical facilities for them. They were not charged with any crime.

There were no designated juvenile detention facilities. The states seldom incarcerated juvenile offenders, and there were no juvenile detainees at year's end. Mediation between families of perpetrators and victims usually resolved crimes by juveniles.

Prisoners and detainees had access to potable water.

No deaths were reported in prisons.

Administration: There is no ombudsman to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders; alleviate overcrowding; and improve pretrial detention, bail, and recordkeeping procedures. In practice, recordkeeping was adequate and authorities sometimes used community service as an alternative to prison sentences for nonviolent offenders. Authorities allowed reasonable access by prisoners and detainees to visitors and 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 authorities rarely investigated such allegations. 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.

Monitoring: The government permits prison visits by independent human rights observers, but none occurred during the year.

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

Civilian authorities maintained effective control over the national, state, and local police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. One case of police brutality was under investigation in Chuuk (see section 1.c.). Law enforcement agencies in Chuuk remained staffed with friends and relatives of powerful individuals.

Arrest Procedures and Treatment While in Detention

Warrants are required for arrests, and authorities advised detainees promptly of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, a requirement generally observed in practice. Courts released most of those arrested on bail. Detainees generally had prompt access to family members and lawyers. In practice, not all detainees who requested help from the Office of the Public Defender received adequate legal assistance because of lack of funding and properly trained lawyers.

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although courts allow juveniles closed hearings. Judges conduct trials and render verdicts; there are no 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 the right to be informed promptly and in detail of the charges, with free interpretation if necessary; present witnesses and evidence; confront witnesses against them; access government-held evidence; and appeal convictions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. 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 in practice.

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. The government generally respected these rights in practice.

Individuals could criticize the government publicly or privately without reprisal. The number of independent media outlets remained small, however, and there was a lack of consistently reliable access to broadcast media.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Internet access was available in all four states, but service was slow, with frequent outages. The Internet was not widely used.

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 freedom of assembly and association, and the government generally respected these rights in practice.

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. Foreign travel, emigration, and repatriation are addressed in other areas of the law. In practice none of these rights was restricted.

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 right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: National congressional elections in March 2011 generally were free and fair. There were allegations of polling fraud in a special election to replace the governor in Chuuk in August 2011, and the losing candidate filed two complaints. A court rejected the complaints and upheld the election results.

Political Parties: There are no restrictions on the formation of political groups; however, 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 expatriate 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 and secretary of justice, and there was one female associate justice on the national Supreme Court and one female associate justice on the Pohnpei State Supreme Court. The government appointed the country's first female ambassador as permanent representative to the UN in 2010. One woman ran unsuccessfully for national office in the 2011 elections. 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. However, officials generally engaged in corrupt practices with impunity. Government corruption was a serious problem, particularly in Chuuk.

There are no laws, regulations, or codes of conduct that require income and asset disclosure by public officials. The Office of the Attorney General has primary responsibility for combating government corruption, including investigation and prosecution of individual cases. The office had sufficient resources. After the government removed the then attorney general in 2010, a series of acting attorneys general were in charge from 2010 until September, creating ineffective leadership. Criminal referrals from the Office of the National Public Auditor (ONPA) to the Department of Justice were not acted upon, and the government generally ignored ONPA's findings and recommendations. Following the government's appointment of a new attorney general in September, the office operated more effectively and independently.

There is no national law providing for public access to government information. The speaker of Congress can declare any congressional document 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, the loss or mishandling of records sometimes delayed their retrieval. There were no reported cases of government denial of access to media.

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, sex, or language, but societal discrimination against women remained a problem. There are no laws against family violence. During the year the national government passed a law to combat trafficking in persons, and implementation of the legislation was under consideration at the state level at year's end.

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 few cases were prosecuted. 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 spousal abuse, often severe, continued during the year. Although assault is a crime, there are no specific laws against domestic abuse. 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 the police would not involve themselves actively in what was 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 the problem of family violence directly.

There were no governmental facilities to shelter and support women in abusive situations. In Chuuk there was a private facility for women's groups, funded by a foreign government, but it did not include a shelter. The Pohnpei Department of Public Safety had a program of domestic violence education that included a hotline and training of its officers to handle domestic violence situations.

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

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. In 2010 authorities estimated the maternal mortality rate at 100 per 100,000 live births, a decrease from an estimated 128 per 100,000 live births from 2005-09. According to indicators published by the Population Reference Bureau, skilled health personnel attended an estimated 80 percent of births, and an estimated 46 percent of married women ages 15-49 used modern contraceptive methods. 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. The public sector comprised approximately half of the country's jobs, 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. For example, in Yap women may not enter a meeting hall during men's meetings. In Chuuk women must bow in the presence of men during formal meetings. Nonetheless, women were active and increasingly successful in private

business. The government formed a national women's working group composed of female national government employees, including the secretary of health and social services, to advise the government on workplace discrimination. Additionally, several small nongovernmental organizations were interested in women's issues, 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 requires registration within two weeks after a birth. In the other three states, registration takes place for hospital births. On remote outer islands, where hospitals are nonexistent, children are not registered until they go to a main island for education.

Education: By law education is compulsory from age six through age 14 or completion of eighth grade; many students leave school before then.

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, although there were some anecdotal reports of child abuse and neglect. The government did not make any efforts to combat child abuse or neglect.

Child 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 as a whole was 26.5 years. The lowest recorded mean age of first marriage was 20.1 in the traditional Yap outer islands.

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 knowingly recruiting, transporting, transferring, harboring, or exploiting anyone under age 18. The states' statutory rape laws apply to children age 13 and below in Chuuk, Yap, and Kosrae and age 15 and below in Pohnpei. The maximum penalties vary by state: Chuuk imposes five years' imprisonment and a \$5,000 fine; Kosrae imposes 10 years and a \$20,000 fine; Yap imposes 10 years and a \$10,000 fine; and Pohnpei imposes five years and a \$5,000 fine. Only Pohnpei has a statute prohibiting child pornography. Both Chuuk and Pohnpei have provisions

against filming explicit movies of underage children; 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 if members of the public reported cases.

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.

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. Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. In practice many buildings had ramps or only one story. 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. The government provided children with disabilities, including learning disabilities, special education, including instruction at home if necessary and if foreign funding was available. Such funding was available during the year, 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 for treating persons with mental disabilities, the government housed some individuals with mental disabilities but no criminal background in jails. The authorities provided separate rooms in jails for persons

suffering from a mental disability, 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 people from low-status villages can 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 for their communities' needs, and low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and foreign investment laws limit the types of businesses noncitizens 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.

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

There are no laws criminalizing consensual same-sex sexual conduct. 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. However, the culture stigmatizes public acknowledgement or discussion of certain sexual matters, including sexual orientation and gender identity, and it was rare for individuals to publicly identify themselves as LGBT.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS or other groups.

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 national government employees by law can form associations to “present their views” to the government without being subject to coercion, discrimination, or reprisals. The government did not prohibit workers, including foreign workers, from joining unions, but for a variety of reasons (including that most private-sector employment was in small-scale, family-owned businesses and the majority of the remaining working-age population engaged in subsistence farming and fishing) there were no unions. No law deals specifically with trade unions or with the right to collective bargaining.

There is no specific right to strike, nor any law prohibiting strikes. There were no employment-related disputes or demonstrations during the year.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor. The government effectively enforced the law.

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

c. Prohibition of Child Labor and Minimum Age for Employment

National and state laws do not establish a minimum age for employment of children. In practice there was no employment of children for wages, but children often assisted their families in subsistence farming and in family-owned shops.

d. 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: \$2.00 in Pohnpei; \$1.25 in Chuuk; \$1.42 in Kosrae; and \$1.60 in Yap. Only Pohnpei had a

minimum wage for private sector workers: \$1.75 per hour, effective January 1. The government enforced the minimum wage through the tax system, and this mechanism was believed to be effective. The law requires equal pay for equal work. Statistics were not readily available, but salaried persons were relatively well-off. As of 2010, 52.2 percent of the population was in the subsistence economy.

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 an issue. A federal regulation requires that employers provide a safe workplace.

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 enforced these standards effectively, and the government had sufficient resources for proper enforcement. Working conditions aboard some foreign-owned fishing vessels operating in the country's waters continued to be very poor, however. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.