

MICRONESIA 2020 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 enjoy significant autonomy, and their traditional leaders retain considerable influence, especially in Pohnpei and Yap. In March 2019 national elections were held for the 14-seat unicameral Congress; 10 senators were elected in single-seat constituencies to two-year terms, and four (one per state) to four-year terms. Following the election, the Congress selected the new president, David W. Panuelo. Observers considered the election generally free and fair, and the transfer of power was uneventful.

The national police are responsible for enforcing national laws, and the Department of Justice oversees them. The four state police forces are responsible for law enforcement in their respective states and are under the jurisdiction of the director of public safety for each state. Civilian authorities maintained effective control over national and state police forces. Members of the security forces were not reported to have committed abuses.

There were no reports of significant human rights abuses.

The government sometimes took steps to identify, investigate, prosecute, and punish officials, but impunity was a problem, particularly for corruption.

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.

In October 2019 Rachele Bergeron, a U.S. citizen who was the acting attorney general for Yap State, was murdered in front of her home; observers believed it may have been related to her work as acting attorney general. Later that month police arrested and charged two local men (one a former police officer). The case was pending trial.

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 such practices, and there were no reports that government officials employed them. Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: Authorities usually held pretrial detainees in the same facilities but in separate areas from convicted prisoners. Due to a lack of medical facilities or community-based support services for treating persons with mental disabilities, the government used separate jail cells to house persons with mental disabilities who had no criminal background.

There are no separate juvenile detention facilities, but two of the four states have designated cells for juveniles. The states seldom incarcerated juvenile offenders.

Administration: There was no prison ombudsman to respond to complaints. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions, but they rarely investigated such allegations.

Independent Monitoring: The government is obliged to investigate and monitor prison and detention center conditions, but no information was available publicly on whether it did so. The government permits visits by independent human rights observers, but there was no information publicly available on whether independent monitoring occurred during the year.

d. Arbitrary Arrest or Detention

The law 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. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

Warrants are required for arrests, and authorities advised detainees promptly of the charges against them. Authorities generally observed the requirement to bring detainees before a judge for a hearing within 24 hours of arrest. Courts released most arrested persons on bail or after they relinquished their passports. 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 due to an insufficient number of trained lawyers.

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 law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Authorities allowed closed hearings for cases involving juveniles. Judges conduct trials and render verdicts. Defendants are presumed innocent, have the right to a fair, timely, and public trial, have the right to be present at their trial, and cannot be forced to testify or confess guilt. They have the right to counsel of their choice, or have counsel provided at public expense, subject to availability of trained lawyers, 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; receive free interpretation as necessary from the moment charged through all appeals, present witnesses and evidence, confront witnesses against them, not be compelled to testify or confess guilt; and appeal. The law extends these rights to all persons. In some cases, however, state governments attempted to deport foreign workers who were victims of a crime before their cases came to trial.

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 the cessation of, human rights abuses.

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

The constitution prohibits such actions, and there were no reports that 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 but does not refer specifically to speech or the press; however, the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote 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 generally 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, and the government generally respected these rights.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

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. There were no cases in which the government had to cooperate with the UNHCR and other organizations regarding treatment of internally displaced persons, refugees, asylum seekers, and stateless persons.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The March 2019 election for 14 congressional legislators to serve either four- (the at-large member from each of the four states) or two-year terms was generally free and fair. Following the election, Congress selected David W. Panuelo as president from among the four at-large members who were eligible to serve as president.

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

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minorities in the political process; however, 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 they were notably few

in the upper ranks. At year's end a woman held one of nine cabinet-level department head positions (postmaster general), and another woman served as consul general at the country's consulate in Guam. 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 four elected women in the Pohnpei State legislature, an increase from the previous election cycle. No women were elected in the March 2019 congressional election, and there were no female members in the other state legislatures.

The country is a multicultural federation, and both Congress and the executive branch 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 generally implemented the law effectively, but some officials reportedly engaged in corrupt practices with impunity. There were numerous anecdotal reports of corruption.

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. It operated somewhat independently. The office had sufficient resources, but observers said it allowed the Transnational Crime Unit (which investigates corruption) to deteriorate. The public auditor referred some corruption cases to the Department of Justice during the year.

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

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 there were active women's associations throughout the country. Government officials often were cooperative and responsive to their views.

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

Women

Rape and Domestic Violence: Sexual assault of women or men, 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 a maximum nine years' imprisonment in Chuuk and 10 years' imprisonment in the other three states, and a fine. If neither a dangerous weapon nor serious physical harm is involved, the assault is punishable in all states by a maximum five years' imprisonment and a fine. Due in part to social stigma, family pressure, fear of further assault, or the belief that police would not involve themselves in what is often seen as a private family matter, such crimes were underreported, and authorities prosecuted few cases. According to police and women's groups, there were several reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context.

Reports of domestic violence, often severe, continued during the year. Although assault is a crime, effective prosecution of offenses was rare. Pohnpei State police stated they would not arrest anyone in a domestic violence scenario if the parents of both individuals involved in the altercation were present. The traditional extended family unit deemed violence, abuse, and neglect directed against spouses or children as offenses against the entire family, not just the individual victims, and addressed them by a complex system of culturally defined 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 in which victims were isolated from traditional family support. No institution, including police, has succeeded in replacing the extended family system or in addressing directly the problem of family violence.

The national government operates a shelter available to all victims of sexual, domestic, and human trafficking crimes in Chuuk. The Pohnpei Department of Public Safety's program against domestic violence included a hotline to handle domestic violence cases. The national government hotline to handle possible cases of human trafficking also reported receiving domestic and sexual assault calls.

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

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

Discrimination: Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment for women. The government enforced the law effectively. The largest employers were the national and state governments, and they paid female employees equal pay for equal work although this is not mandated by law. Societal discrimination against women continued, however, and cultural mores encouraged discriminatory treatment for women. Examples of discrimination against women included many instances of women being pressured to stop their higher educational pursuits once they become pregnant. Women were also discouraged from returning to school once the child was born.

Children

Birth Registration: A child acquires citizenship if at least one parent is a citizen. 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 authorities do not register children until and unless they come to a main island for education.

Education: By law education is free and compulsory for children from ages six through 14, or upon 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 reporting of abuse, and there were anecdotal reports of child abuse and neglect. The government made no efforts to combat child abuse or neglect. There are no shelters for child victims of domestic abuse. Traditional mediation usually involved agreement among male elders and provided no support for child victims.

Child, Early, and Forced Marriage: The minimum legal age for marriage is 18 for both boys and girls.

Sexual Exploitation of Children: The law sets a maximum penalty of 30 years' imprisonment and a substantial fine for child trafficking. The states' statutory rape laws apply to children age 13 or younger in Yap and Kosrae, 15 or younger in Pohnpei, and 17 or younger in Chuuk. Maximum penalties vary by state. In

Chuuk and Pohnpei, it is five years' imprisonment and a fine, while in Kosrae and Yap it is 10 years' imprisonment and a 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.

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 is a very small Jewish community, 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 law prohibits discrimination against persons with physical disabilities in public service employment; no cases of such discrimination were reported. The National Disability Policy mandates accessibility to public buildings or services for persons with disabilities and provides for access to information and communications for persons with disabilities. The law protects access to health services and education for persons with disabilities.

By law students with disabilities have the right to separate education and training until they are age 21; however, there are no separate education facilities. The government provided children with disabilities, including learning disabilities, separate education in mainstream schools and instruction at home if necessary and if foreign funding was available. Separate education programs faced difficulties serving all eligible children.

Due to a lack of facilities and community-based support services for treating persons with mental disabilities, the government housed some persons with mental disabilities but no criminal background in jails. Authorities continued to provide separate rooms in jails for persons with mental disabilities, and state health departments provided medication and other treatment free to all incarcerated persons with mental disabilities.

The Department of Health and Social Affairs is responsible for protecting the rights of persons with disabilities but did not provide significant services.

Members of National/Racial/Ethnic Minority Groups

Each of the country's four states has a different language and culture. Traditionally Yap State 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 by those of higher status. The traditional hierarchical social system has gradually broken down, and capable persons from low-status villages may rise to senior positions in society. Nonetheless, the traditional system affected contemporary life. Authorities sometimes continued to underserve low-status communities.

The national and state constitutions prohibit noncitizens from owning land, and foreign investment laws limit the types of businesses they can own and operate.

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

The law does not criminalize consensual same-sex sexual conduct between adults; nor does it prohibit discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons. There were no reports of violence or discrimination against LGBTI persons. The culture stigmatized public acknowledgement or discussion of certain sexual matters, including sexual orientation and gender identity. Persons rarely publicly identified as LGBTI.

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 government employees can form associations to “present their views” to the government without being subject to coercion, discrimination, or reprisals. Citizens did not exercise this right. No law deals specifically with trade unions, the right to collective bargaining, or antiunion discrimination. There is no specific right to strike, but no law prohibits strikes. The government effectively enforced applicable laws, and penalties were commensurate with those for other laws involving denials of civil rights.

Although the law does not prohibit workers, including foreign workers, from joining unions, there were no unions and most private-sector employment was in small-scale, family-owned businesses or in subsistence farming and fishing. No nongovernmental organizations focused on unions or labor issues.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law, although resources and inspections were minimal. Penalties were commensurate with those of other analogous serious crimes. The national antitrafficking law provides for penalties that were sufficient to deter violations.

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

National and state laws do not establish a minimum age or prescribe limits on hours or occupations for employment of children. The law does not prohibit the worst forms of child labor. There was no employment of children for wages, but children often assisted their families in subsistence farming and family-owned shops. There were reports of children trafficked by family members for commercial sex, particularly to foreign fishermen and other seafarers. Penalties were not commensurate with those for other analogous serious crimes.

d. Discrimination with Respect to Employment and Occupation

The constitution prohibits discrimination based on race, gender, and religion. Labor law also prohibits discrimination based on race and gender. The law also

provides protections for persons with disabilities, but they are limited in scope. The law does not provide for specific legal protections for age, citizenship, national origin, political opinion, sexual orientation, gender identity, or positive diagnosis of HIV/AIDS or other diseases. The government did not effectively enforce the law, and penalties were insufficient to deter violations. Penalties were commensurate with laws related to civil rights.

There was no pattern of discrimination in most areas, although discrimination in employment and occupation occurred with respect to persons with disabilities. Traditional customs, especially in Yap State, limited professional opportunities for lower-status and outer-island persons. Women were underrepresented in all areas except in the service sector.

e. Acceptable Conditions of Work

The national minimum hourly wage for employment with the national government was above the official estimate for the poverty income level. There is no other minimum wage.

The law sets a standard of an eight-hour workday and a five-day workweek, with premium pay for overtime. There are no legal provisions prohibiting excessive or compulsory overtime. A federal regulation requires that employers provide a safe workplace. Occupational safety and health (OSH) standards are practiced and enforced by the appropriate government entity, such as Public Health and Environmental Protection Agency. Workers can remove themselves from situations that endangered health or safety without jeopardy to their employment. Government entities did effectively enforce OSH laws, and penalties were commensurate with those for crimes like negligence.

The Division of Immigration and Labor within the Department of Justice is responsible for enforcing these standards. The number of labor inspectors was sufficient to deter violations. Inspectors had the authority to make unannounced inspections, and initiate sanctions. The tax system monitored the minimum wage effectively. The government generally was effective in its enforcement of these standards and provided sufficient resources for effective enforcement. Penalties were commensurate with those for similar crimes.

Approximately one-half of workers were in the informal economy where the law does not apply, predominantly in subsistence agriculture and fishing. There were

no reports on working conditions for any foreign-owned fishing vessels during the year in the country's waters.