

# Human Trafficking in the Federated States of Micronesia

## **Introduction**

1. The Helena Kennedy Centre for international Justice is a human rights centre based at Sheffield Hallam University in the UK.<sup>1</sup> The Centre supports a range of research and scholarship activity including supervised work by our students. This submission is the product of undergraduate students studying with the Human Rights Law Clinic.
2. This report will critically analyse and report on the factors that contribute to the prohibition and prevention of human trafficking in the Federated States of Micronesia ('Micronesia'); these include how the constitutional and legislative framework is adhering to the international prohibition and whether there any financial and economic influences or support for those affected. The report also details the different forms of trafficking and the dominance of sexual exploitation trafficking and how the judicial system responds to trafficking and political, legal and social justice.

## **Constitutional and Legislative Framework**

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<sup>1</sup> See <https://www.shu.ac.uk/about-us/academic-departments/law-and-criminology/the-helena-kennedy-centre-for-international-justice>.

3. Human trafficking is not addressed in a dedicated UN human rights instrument independent from other human rights protections<sup>2</sup>. However, human trafficking is significantly mentioned in the 'Convention on the Elimination of all forms of discrimination against women' which has been ratified by Micronesia on the 1st September 2004. The 'Convention against Torture and other cruel inhuman or degrading treatment or punishment' also is symbolic in the stand against human trafficking<sup>3</sup>. This treaty has been signed by Micronesia on the 15th of September 2005 but currently, there has been no ratification/succession. The Micronesian government should accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in accordance with the United Nations Convention against Transnational Organized Crime, also known as the Palermo Protocol.
4. Since the last UPR review, there has been a lack of progress involving the ratification and signature of treaties which are vital to the prevention of human trafficking. Nevertheless, the implementation of relevant provisions of human rights treaties is supported in Micronesia's legislation – the most recent direct legislation involves the 'Trafficking in Persons Act 2012' which details trafficking and the smuggling of migrants<sup>4</sup>. Micronesia has indicated its support for previous recommendations and continues to advance the interception of human trafficking although the implementation of measures has been inconsistent<sup>5</sup>. Micronesia has introduced alternative measures to implementation, for example, all four states in Micronesia recognize the 22nd of January as Anti-human trafficking Day. Also, as a result of legislation such as the 'Trafficking in Persons Act, 2012' up to three cases are sent to court annually including the William Chunn Trafficking case<sup>6</sup>.

### Financial Assistance

5. Micronesia's revenue is primarily based on farming and fishing – the principle exports include Japan, China, the Republic of Korea and Thailand. In 2017, Micronesia GDP was USD336.4 million, a 2.25 percent increase from 2016 at constant prices<sup>7</sup>.
6. Micronesia has benefitted from bilateral relationships with the U.S., Australia, and China that have supported its programme against human trafficking. The United States in 2019, provided Micronesia with \$65 million to be contributed to sectors such as education and health. This contribution is beneficial to assisting the prevention of human trafficking. Health and Education are interdependent and indivisible with human trafficking – therefore by using education to help information from a young age or health facilities to support victims can help the aftercare or

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<sup>2</sup> Treaty Bodies Treaties' (Tbinternet.ohchr.org, 2019), at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=113&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=113&Lang=EN), accessed 3 December 2019.

<sup>3</sup> Acf.hhs.gov (2017), [https://www.acf.hhs.gov/sites/default/files/otip/federated\\_states\\_of\\_micronesia\\_profile\\_efforts\\_to\\_combat\\_human.pdf](https://www.acf.hhs.gov/sites/default/files/otip/federated_states_of_micronesia_profile_efforts_to_combat_human.pdf), accessed 5 December 2019.

<sup>4</sup> 'MICRONESIA Government Home Page' (Micronesiagov.org, 2019), <https://www.Micronesiagov.org/> accessed 1 December 2019.

<sup>5</sup> Trafficking in Persons Report 2019' – (US State government, p237) <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>, accessed 30 November 2019

<sup>6</sup> Louella Losinio, 'MICRONESIA Court Sentences Cabbie In Sex Trafficking Case - PNC News First' (PNC News First, 2019), <https://pncguam.com/Micronesia-court-sentences-cabbie-in-sex-trafficking-case/>, accessed 8 December 2019.

<sup>7</sup> Micronesia Country Profile (9January 2018) <https://www.bbc.co.uk/news/world-asia-pacific-15494620>, Accessed 21/11/2019.

prevent the relapse of re-emergence in Trafficking<sup>8</sup>.

7. Between the years of 2018-2020, Australia contributed \$17.9 million specifically towards the achievement of gender equality and the empowerment of women's rights. This action by Australia is beneficial towards the action fought against human trafficking which in Micronesia the main focus of trafficking in women<sup>9</sup>.
8. China agreed to financially assist Micronesia with multiple opportunities such as expanding the terminal at Chuuk airport, providing scholarships for students to study in China and return China has authority over Micronesian waters<sup>10</sup>. This is beneficial in the support of preventing human trafficking as this allows easier access to Micronesia for UN/NGO officials who need to assess on the ground. Furthermore, there is an increase of opportunity meaning that women are not forced into sexual exploitation for financial gain.

### Human Trafficking in Micronesia

Currently, the government of Micronesia does not effectively eliminate human trafficking but they are making a significant effort to do so. Compared to the previous report the Micronesian government has demonstrated increased efforts – they are classified as a Tier 2 in the recent US State Department report. An example of the efforts made by Micronesia includes the introduction of new legislation – for example the Congressional Act (CA) 17-37 – this is specific legislation that allows the prosecution of those who participate in human trafficking conducted in Micronesia or committed by Micronesian nationals. This act is intended to address Micronesia's obligation arising from its accession to the Palermo Protocol and the first step towards its obligations the criminalization of human trafficking.

9. The way that human trafficking has previously been punished can demonstrate the efforts that have been made: the national anti-trafficking law criminalizes sex and labor trafficking and prescribed penalties for up to 15 years of imprisonment or a fine of between \$5,000-\$25,000 USD. Both imprisonment and a fine can be given for a crime involving child victims of human trafficking. This gives us a general overview that there are current issues in Micronesia however the Micronesian government is making an active effort by passing legislation and prosecuting those responsible for trafficking crimes.

### Specific Areas of Human Trafficking

10. There are different types of human trafficking. These are not specifically defined in Micronesian legislation however there are general provisions that may be applied – for example 'the removal

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<sup>8</sup> Tanya Harris Joshua, 'United States and the Federated States of Micronesia Hold Annual Joint Economic Management Committee Meeting', (9/14/2018), <https://www.doi.gov/oia/united-states-and-federated-states-micronesia-hold-annual-joint-economic-management-committee-0>, Accessed 23/02/2020

<sup>9</sup> John McEwen Crescent, 'Development assistance in the Federated States of Micronesia', <https://dfat.gov.au/geo/federated-states-of-micronesia/development-assistance/Pages/development-assistance-in-federated-states-of-micronesia.aspx>, Accessed 23/02/2020

<sup>10</sup> Freedom House, 'freedom in the world' (2019), <https://freedomhouse.org/report/freedom-world/2013/micronesia>, Accessed 23/02/2020

of a child by force without consent is prohibited<sup>11</sup>. These include sexual exploitation involving the trafficking of persons, forced labour, forced child labour, slavery, and illegal organ donation. Sexual exploitation is the most common in Micronesia for women who are trafficked into prostitution – they are primarily trafficked to the U.S. or Guam. The estimated cases are heavily unreported due to fear of being shamed or held accountable in Micronesia's heavily community-based towns and villages. Women are trafficked with the promise of work in the U.S as Micronesia's economic activity largely involves farming or fishing; or are exploited by fishing vessels<sup>12</sup> – for example a highly reported case of William Chunn.

11. Other forms of trafficking include forced labour – there is legislation that prohibits forced or compulsory labour – however, the government enforces this legislation to a basic standard and inspections are minimal. Violations are responded to with penalties. Migrant female workers are more vulnerable and likely to be victims and exploitative workplace practices including foreign fishing vessels – the conditions are indicative of human trafficking<sup>13</sup>.
12. Other trafficking included child labour – however, there have been no reported incidents in Micronesia this is thought to be because the size of the island and the shortage of the population – circumstances such as these make it difficult to carry out<sup>14</sup>. However, the Convention of the Rights of the Child is legally binding in Micronesia constitution.
13. Other forms of human trafficking including organ trafficking are not common and sexual exploitation is predominately more common and therefore using more of the resources available.

#### External Influences

14. The U.S. influence in Micronesia began in the 1960s of the current civil code that is still used by Micronesia government to this day. Since the compact of Free Association, the U.S has continued to have a substantial influence over Micronesia. Micronesia has elected to end this agreement in 2018 and this will come into force in 2023. In 2011, the Joint Economic Management Committee (JEMCO) declared the purpose of managing the compact relationship between the U.S. and Micronesia by strengthening the management and accountability regarding the compact assistance and promoting the effectivity of how the funding provided is used<sup>15</sup>. An agreement between the two countries has agreed to focus on Micronesia's economy, health and education. These are all contributing to the prevention of human trafficking. Recently, Micronesia has suggested that assistance in these departments is slow and distribution of funding for aid development has been mismanaged.

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<sup>11</sup> U.S. Dept of State Bureau of Democracy, Human Rights, and Labor, April 20. 2018

[www.state.gov/j/drl/rls/hrrpt/2017/eap/277099.htm](http://www.state.gov/j/drl/rls/hrrpt/2017/eap/277099.htm), accessed 18 February 2019

[www.state.gov/reports/2017-country-reports-on-human-rights-practices/federated-states-of-micronesia](http://www.state.gov/reports/2017-country-reports-on-human-rights-practices/federated-states-of-micronesia) accessed 30 June 2019.

<sup>12</sup> 2018 Edition: [www.freedomhouse.org/report/freedom-world/2018/micronesia](http://www.freedomhouse.org/report/freedom-world/2018/micronesia), accessed 18 February 2019.

<sup>13</sup> <http://gvnet.com/humantrafficking/Micronesia.htm>.

<sup>14</sup> United Nations Press Release, HR/CRC/98/11, 14 January 1998.

[www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=6430&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=6430&LangID=E), accessed 11 September 2014,

[www.newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=6430&LangID=E](http://www.newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=6430&LangID=E) accessed 22 September 2016.

<sup>15</sup> Thomas R. Matelski, 'America's Micronesia Problem' (The Diplomat 19/02/2016),

<https://thediplomat.com/2016/02/americas-micronesia-problem/>. Accessed 02/03/2020.

15. Additionally, a local task force includes Yap state human trafficking and Pacific Regional Response to combat human trafficking Initiative. Furthermore, local non-governmental organisations include the regional resource team (RRRT) – this is a team that focuses on general human rights in the Pacific. RRRT assists with supporting human rights commitments in Micronesia by helping with treaty ratification, UPR and treaty reporting, and implementation. Furthermore, RRRT is highly important when supporting human rights practices – this involves assisting in Micronesia with legislation and policy review, training to government departments, assisting with the participation of government working with local groups and committees<sup>16</sup>. The RRRT aims to achieve more ratification, implementation, and progress to eradicating human trafficking by increased monitoring and assistance of the government to apply this in national development issues. Moreover, Asia Pacific Forum (APF) has also advocated for the prevention of human trafficking in Micronesia. APF hold a significant role in advising and guiding Micronesia to meet their human rights obligations under international law<sup>17</sup>. There is, therefore, additional support and information that is available to Micronesia government.

### Political and Social Justice in Micronesia

16. The political and social state of Micronesia is reflective of the current state of human rights in the territory. Representatives are elected through free, fair and regular elections. However, some groups such as women are limited in participation due to traditional bias and stereotypes. Each island has a variety of accents or cultures and can be treated differently by the central government<sup>18</sup>. Women are one of the said groups as traditionally society is male-dominated, there are a few women representatives at lower levels and notably less in higher levels of government. Within the government, there is corruption that occurs, for example, misuse of public resources. There is no legislation in place that entitles the public to freely access information. Civil liberties are present – for example, freedom of expression and belief. Rule of Law is also present in Micronesia; there are an independent judiciary and a clear process of civil and criminal matters. Citizens also have personal autonomy and individual rights<sup>19</sup>. The significant proportion of the Micronesian legal system has been adopted from other countries.<sup>20</sup> The majority of attorneys in Micronesia are trained in international law schools. There are prevalent social issues in Micronesia – one dominant issue is ‘alienation of youth’. In recent years travelling has grown in popularity with the Micronesian youth with the increase in opportunities available to them – this has led to the older population feeling youths are abandoning their traditional values and customs. Recently, other social issues such as the debilitation of local communities and alcohol-related violence have increased<sup>21</sup>. Political and social issues affect human trafficking in Micronesia; if the community, families and international involvement are being affected crimes such as trafficking becomes more accessible and frequent.

### Judicial System

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<sup>16</sup> <https://rrrt.spc.int/>

<sup>17</sup> <http://www.asiapacificforum.net/>

<sup>18</sup> ‘Micronesia’ (Freedomhouse.org, 2019) <https://freedomhouse.org/report/freedom-world/2018/micronesia> accessed 7 December 2019.

<sup>19</sup> United Refugees, ‘Refworld | Freedom In The World 2018 - Micronesia’ (Refworld, 2019)

<https://www.refworld.org/country,,,MICRONESIA,,5bcdce2818,0.html> accessed 7 December 2019.

<sup>20</sup> *The American Journal of Comparative Law* Vol. 41, No. 1 (Winter, 1993), pp. 9-48 Published by: Oxford University Press <https://www.jstor.org/stable/840505> accessed 04 December 2019.

<sup>21</sup> The Anthropologist And Social Problems In Micronesia’ (2019)

<https://scholarspace.manoa.hawaii.edu/bitstream/10125/15490/1/OP21-101-112.pdf> accessed 6 December 2019.

17. Micronesia adopted the 'Trafficking in person's legislation' in 2012 but the implementation of the Act by the judicial system and government was prolonged and difficult. The legislation prohibited all types of trafficking in persons and established up to 15 years of imprisonment and a fine of \$5,000-\$25,000 for cases involving adult victims and up to 30 years and \$5,000-\$50,000 fine for any case involving child victims. The lack of reporting and cooperation with international and national NGO's regarding human trafficking makes the interference and prevention of this crime in Micronesia more difficult. The Micronesian judicial system failed to investigate, prosecute, and convict proportionally to the seriousness of their crimes by asking the offenders of human trafficking to pay restitution to victims rather than order lengthy prison sentences. Some allegations of human trafficking have been reported and investigated by the judicial system though few of them were convicted<sup>22</sup>. The judicial system should do more, by cooperating with international and national NGO's and investigate human trafficking cases effectively to reduce the human trafficking in the State. They should also encourage people to report cases via the hotline 8883737888 service established for that purpose.<sup>23</sup>

#### **Recommendations for action by the State under Review**

18. **Following our report, it is recommended that Micronesia:**

- **Strengthen its efforts to establish a legal framework determined to prevent human trafficking in Micronesia. This is to be completed as soon as possible to assist efforts to prevent human trafficking.**
- **Accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in accordance with the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) and create awareness campaigns through media and education to help support individuals who have been affected by traffickers.**
- **Create a campaign/movement in national media to increase awareness and determination to prosecute perpetrators of trafficking.**
- **Specially train teachers in schools to become aware of the signs of a young person at risk of/or being trafficked.**
- **Provide resources for and establish a human trafficking recovery course that can help assist and protect victims in the rehabilitation of trafficking. Seek assistance from international expert organisations as appropriate to enable assistance dependent over severity, time prolonged, age and support available to the victim.**

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<sup>22</sup> U.S. Department of State, 'trafficking in person report', (2019) <https://www.state.gov/trafficking-in-persons-report/> Accessed 11/12/2019.

<sup>23</sup> OWH Children and Families, 'MICRONESIA efforts to combat human trafficking', (2017), [https://www.acf.hhs.gov/sites/default/files/otip/federated\\_states\\_of\\_micronesia\\_profile\\_efforts\\_to\\_combat\\_human.pdf](https://www.acf.hhs.gov/sites/default/files/otip/federated_states_of_micronesia_profile_efforts_to_combat_human.pdf). Accessed 17/03/20

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