



OFFICE OF THE ATTORNEY GENERAL

P.O BOX 890, Majuro MH96960;
REPUBLIC OF THE MARSHALL ISLANDS

MAJOR LAW AND JUSTICE ACHIVEMENTS

RMI COURTS SYSTEM

- Under its constitution, RMI has a Westminster style government with 33 members of Parliament (Nitijela). Article VI of the Constitution provides for a judiciary “ independent of the legislature and executive powers.” The judiciary comprises of 5 levels of court as well as a Judicial Service Commission. The courts include the Supreme Court of Justice, the High Court, the Traditional Rights Court, District Court and the Community Court.
- The judiciary has been dealing the absence of 2 Judges, stranded due to travel restrictions with a sustained increase in the demand on the Chief Justice’s time. Cases involving corporations, maritime, and the enforcement of foreign judgments have thankfully decreased this year.. In 2020, only 2 cases were heard by the SCT via a video court session.
- Traditional Rights Court Chief Judge court judge Hon Walter Elbon sadly passed away after 50 years of working in the RMI, first when the Marshall Islands was part of the Trust Territory and later as Deputy Chief Clerk under RMI jurisdiction.

RMI Judiciary Decisions 2020: Summary of Cases & Decision

Antolok Antolock v RMI SCT Criminal 2018-011 (11/18/20): Decision on Appeal. The Supreme Court up held the Appeal in part acquitting the Defendant of sexual assault in the second degree, due to a complete absence of “penetration” on the recor. The court entered a conviction of sexual assault in the third degree. The court remanded the matter to the High Court for re-sentencing and the Defendant was remanded in custody. ”

Phillip Alee v RMI SCT Criminal 2018-03

Appeal has been heard by the Supreme Court, but the decision is reserved.

HIGH COURT DECISIONS: 2019-20. Summary of Selected Decisions Only.

1. *RMI v Helling Kajeong* Criminal 2020-008 (09/29/20): Defendant found to have beat his partner to death with a wooden stake in front of her 6 year old daughter. Following a 3 day trial involving the evidence of several witnesses, including the evidence of the child, taken remotely the Defendant was found guilty of murder in the first degree. He was sentenced to the maximum imprisonment of 25 years in jail
2. *RMI v Naisher* Criminal 2019-014 (12/01/20): Defendant, a school cook, was found to have kidnapped a student taken her to a storeroom and sexually assaulted her. Following a 2 day trial Defendant was found guilty of kidnapping in the second degree and sexual assault in the 2nd degree. Defendant was sentenced to serve 5 years in jail for each offence, the sentence is to be served cumulativ

The court has been restricted to the Chief Justice only. There have been a number of guilty pleas and 1 trial with resulted in acquittal of aggravated assault. Another prosecution for Aggravated Assault was dismissed on mental health grounds. Five prosecutions were dismissed as the Defendants had left the jurisdiction and the cases although significant were considered not suitable for a extradition request.

LEGISLATIVE ENACTMENTS AND BILL. 2018-2019. SELECTED ACTS AND BILLS.

Prohibited Drugs Amendment Act (2020)

Amendments to the previously named Narcotics Drugs Act, were enacted to criminalize methamphetamine, ecstasy and bath salts. The name was altered to correctly reflect that these substances are not strictly narcotic drugs.

Banking (amendment) Act 2020

Improved money laundering preventative reporting requirement and enforcement.

Retail Price Monitoring (amendment) Act 2020

Improved the Act to allow inspectors to report “price gouging” in Majuro and Ebeye.

RMI TREATY STATUS 2020

Due to the COVID19 Epidemic the RMI has not entered into any new Treaties.

Most reporting has been adjourned or completed.

RMI did successfully complete the UPR process with the UN Committee on Human Rights, with an extended zoom appearance, assisted by the Attorney General’s Office.

OFFICE OF THE ATTORNEY GENERAL

Section 3 of Article VII of the RMI Constitution delineates the duties and responsibilities of the Attorney General and grants the Attorney General the authority to institute, conduct, or discontinue any criminal offense in the Republic. The Attorney General Act also empowers the AG to deal- communicate and correspond- directly with any agencies or organizations outside of the RMI on behalf of the RMI government.

The Public Service Commission appoints the AG in consultation with the President of the Republic. Pursuant to *Section 605 of the Attorney General Act*, the Criminal Division of the AG’s Office is charged with the responsibility to render prosecution services in the Marshall Islands.

An active and crucial division of the Office includes the Civil Division which handles, among others, registration of corporations, government contracts, government leases agreements and all other forms of agreements, and citizenship issues.

The Attorney General advises President and Cabinet, Ministries, public agencies and State Owned Enterprises, and has supervising authority over Labor Department and the Department of Immigration, and liaises closely with all national/public safety bodies including national and local police, and ports authority.

The Attorney General Richard Hickson commenced the role on October 1, 2019. The new Attorney General is not new to the Marshall Islands. He arrived in January 1997 as an attorney at the office where he is now the Attorney General, and later a legal counsel to the Telecommunication Authority. He was an associate judge in the RMI High Court for a four year term. From 2007-2019 he practiced in a range of roles in Australia.

Staff

Until recently, the professional staff status of the Office which originally stood at 10 attorneys has been reduced to its current status of 5, including the Attorney General. Two of the attorneys have been stranded in the US and the Philippines. One attorney is on a one-year educational leave in Hawaii. One retired and one left to the banking industry. We have benefitted from excellent transfers from other Government Departments. The large volume of professional work force has placed a strenuous load upon the remaining attorneys at both the criminal and civil divisions.

CORRUPTION

Corruption: Fraud cases on the increase

In its latest Semi Annual Audit Report early September 2019, the Auditor General stated that the number of fraudulent activity by government officials tripled in 2019 compared to its earlier report to Nitijela in January. A total of 13 news allegations of theft of government money, bribery and abuse of public office are currently under investigation by the Auditor's General's Office. There is now a total of 27 investigations by the auditor's office into fraudulent activity in government over the past 12 months. The office continues to pursue investigations until there is sufficient evidence for probable cause for conviction or civil

recovery proceeding before the cases are referred to the Office of the Attorney General for prosecution.

The Office of the Attorney General has sought and has been assured of support from the U.S if it were to consider seeking the assistance of the United States Government in extraditing those involved.

RMI/Office of the Attorney General is a member of the PILON Working Group on Corruption.

CYBERCRIME

- RMI Office of the Attorney General is a member of the PILON Working Group on Cybercrime.

The following laws address Cybercrime related activities:

- Criminal Code Act 2011
- Anti- Money Laundering Regulation, 2002
- Banking Act 1987
- Securities and investment Act ; 18 MIRC Ch 1].
- Trust Act 1994 [50 MIRC Ch1].

Latest information and updates from FBI indicated that even though the total amount of money hacked out of RMI Trust Fund kept in an investment bank abroad in 2018 has been fully recovered, the investigation to determine the final culprits would still be continuing.

SEXUAL AND GENDER BIAS VIOLENCE (SGBV)

- RMI Office of the Attorney General is a member of PILON Working Group on SGBV.
- In the month of May, 2019, one of the prosecuting attorneys from the Office joined team with an associate judge from the RMI High Court and attended a PILON sponsored workshop in Apia, Samoa on issues and evidentiary challenges associated with SGBV.
- As member of the WG, the Office continues to participate in teleconferencing as well as contribute to the review of the SGBV manual of principles and legislative drafts aimed at minimizing duress for the victim of sexual assault while enhancing where appropriate the victim's rights to protection as a victim in court.

- RMI relies substantially on Criminal Code 2011 and Child's Rights and Protection Act 2015 for prosecution.
- 2 successful prosecutions for domestic violence (1 murder, 1 sexual assault) cases occurred in 2020.
- The Office conducted a seminar on Domestic Violence a people smuggling in July.

COLLABORATION WORK

Collaboration with USDJ In obtaining evidence

- The Attorney General, in collaboration with officers of the MIDP, successfully arrested the and photographed a helicopter on behalf of USDJ Guam.

Collaboration with U.S Drug Enforcement Agency

- The MIPD and Attorney Generals were able to destroy approximately 650kg of cocaine that came to an outer island by boat. Samples have been supplied to DEA.

HUMAN TRAFFICKING

First Human Trafficking Case Filed

- RMI assisted in the prosecution of a US Attorney who was prosecuted for arranging illegal adoption of Marshallese babies by American parents. He was convicted in Utah, Arkansas and Arizona to at least 6 years in jail.


New Jail to Hold Women and Youth

- After decades of having no jail specially designed to accommodate women and youth convicted of a criminal offence, the RMI government finally laid the ground-work for the construction of a new jail and a modern police station. The multi-purpose complex will cost approximately \$1.4 million. In the past, convicted women and youth were placed under house arrest or under curfew restrictions over a period of time. However, proper supervision was difficult to manage on a regular basis. In some cases, the accused would often resist admitting to the crime, or agreeing to terms in a plea agreement knowing that a jail term would not be an option.
- Ministry of Health is in the process of planning and building secure detention facilities for the mentally ill.

Training and education

The global pandemic has effectively stopped all training and education. The increase in work, and decrease in staff are also reasons for this. We hope to see an improvement in this area in 2021.

Respectively submitted,

A handwritten signature in blue ink, appearing to be 'Richard Hickson', with a date '1-4-21' written next to it.

Richard Hickson

Attorney General