



**FEDERATED STATES OF MICRONESIA  
COUNTRY REPORT**

40<sup>TH</sup> Pacific Islands Law Officers' Network (PILON)  
Annual Meeting

5 November 2021

Hosted by: Samoa Attorney General's Department

## **I. INTRODUCTION:**

1. On behalf of the Attorney General, Secretary Joses R. Gallen of the Department of Justice of the Federated States of Micronesia, I have the pleasure of presenting to the distinguished Delegates of the 40<sup>th</sup> Pacific Islands Law Officers' Network (PILON) Meeting, the country report of the Federated States of Micronesia for 2021.
2. First, on behalf of the Government of the Federated States of Micronesia, I would like to express FSM's gratitude and congratulatory greetings to the PILON Secretariat and the Attorney General's Department of Samoa for their leadership and hard work in preparing for and hosting the 40th historic PILON annual meeting virtually.
3. The FSM acknowledges that it is not an easy task to organize virtual meetings, and for that, FSM commends all the hard-working hands that were involved in the preparations for this PILON annual meeting.
4. Due to the COVID-19 pandemic, the year 2021 proves to be another difficult year for all nations of the world, including the Federated States of Micronesia. Covid-19 has drastically impacted almost all sectors compelling FSM to adopt restrictive measures to prevent the introduction of the virus into the FSM and to continue its mandate of law and order in FSM.
5. Restrictive measures put in place, including closure of borders and social distancing measures, have adversely impacted FSM's efforts towards achieving the key strategic objectives of PILON due to the inability to effectively move supplies and personnel within the four states of the FSM.
6. Despite these challenges and uncertainties posed by the Covid-19 Pandemic, FSM is still working hard to ensure access to justice is not hindered by adopting special measures such as meetings, conferences and hearings through telephonic and virtual platforms.
7. FSM still maintain the five (5) taskforces (National Taskforce and one State Taskforce for each of the four States) all aim at addressing issues related to COVID-19. It is not easy work for the leadership in these different taskforces to always see eye to eye on the restrictive measures being put in place, but fortunately, the leadership has been successful so far in keeping the Covid-19 out of FSM's shores and we are truly grateful for that.

8. It is our hope that the discussions we have in this virtual PILON annual meeting will assist PILON members further in their law and justice developments.
9. It is also FSM's hope that these discussions will assist member States in their efforts towards the key strategic objectives (corruption, cybercrime, and sexual and gender-based violence) during this Pandemic.

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Johnson A. Asher

Assistant Attorney General  
Department of Justice, FSM

## **II. Major Law and Justice Sector Achievements**

10. As a matter of background information, it is extremely relevant to outline the organization of the Department of Justice, which is the legal arm of the FSM National Government.
11. In previous reports, FSM reported that there are five (8) Divisions under the umbrella of the FSM Department of Justice. Today, FSM is pleased to report that the Department of Justice has expanded to include a new division of Cybersecurity Unit. Additionally, in the pipeline and forthcoming is the Division of International Law.
12. Currently, the Department of Justice has eight (8) divisions in total, which includes the following: 1) Division of Law; 2) Division of Litigation 3) Division of Immigration and Passport Services; 4) Division of Labor; 5) Registrar of Corporations; 6) Division of Investigation and Protective Services; 7) Division of Border Control and Maritime Surveillance; and 8) Division of Anti-Human Trafficking Services; and (9) Division of Cybersecurity Unit.
13. The functions and duties of the Division of Law include:
  - a. Advising the President and other Executive Officials on the interpretation and application of national laws in the performance of their public duties;
  - b. Issuing legal opinions on questions of law submitted by the President, members of Congress, and Heads of Departments, Agencies and Offices;
  - c. Drafting bills and resolutions, regulations, Presidential proclamations and orders, agreements, contracts, and other legal instruments for the Executive Branch;
  - d. Reviewing and advising the President on bills passed by Congress and presented to President for his approval;
  - e. Advising the Department of Foreign Affairs on legal aspects of relations with the United States of America and other nations; and
  - f. Reviewing and advising on international agreements and treaties, including the Compact of Free Association.
14. The functions and duties of the Division of Litigation include:
  - a. Instituting criminal investigations and proceedings against any person, business, or legal entity accused of violating the laws of the FSM, which is not limited to the FSM Constitution, code, treaties, and regulations;

- b.** Representing and defending all civil actions and proceedings involving the FSM or its employees in their official capacities, including any subsequent appeals;
  - c.** Representing and defending all appeals of adverse actions made by the respective departments to suspend, demote, or dismiss an employee of the FSM;
  - d.** Advising the FSM and respective departments regarding out-of-court settlements; and
  - e.** In conjunction with the FSM National Police, enforce and administer all the FSM Supreme Court case sentences, the FSM Penal or Prison System, including administration of all Joint Law Enforcement Agreements with the States.
- 15. The functions and duties of the Division of Immigration and Passport Services include:
  - a.** Regulating entry of aliens into the FSM and their presence therein;
  - b.** Managing and supervising the Border Management System and planning for its needed update;
  - c.** Managing and regulating the identification of FSM Nationals and recommending system to facilitate the protection of their rights in FSM; and
  - d.** Maintaining the security and quality of FSM passports and coordinating with or recommending to Secretary of Justice ways to improve the processing of passport applications and renewals.
- 16. The functions and duties of the Division of Labor include:
  - a.** Reviewing applications for foreign labor permit;
  - b.** Coordinating with FSM States with respect to their respective demands for foreign labor and facilitate meeting such demands;
  - c.** Promoting labor development and recommend specific programs to the Secretary of Justice concerning effective and practical ways of promoting labor development;
  - d.** Implementing licensing of recruiters of FSM citizens to work abroad; and
  - e.** Reviewing labor contracts and investigating complaints on their possible or suspected violations.
- 17. The functions and duties of the FSM Registrar of Corporations include:

- a.** Maintaining a register of corporations in consultation with the Department of Justice;
- b.** Promulgating regulations pertaining to major corporations pursuant to Section 321 of Title 54 of the FSM Code, as amended;
- c.** Providing the business incorporation review and approval recommendations process for the FSM Government; and
- d.** Monitoring and overseeing compliance of corporations with corporate laws of the FSM.

18. The functions of the Division of Investigation and Protective Services include:

- a.** Providing security detail and protection to airport facilities, passengers, and other persons therein and to national assets, buildings and properties;
- b.** Conducting criminal investigation on matters referred to it by the Attorney General or his Assistants and such matters that are referred by the Public Auditor to the Secretary of Justice for examination and possible criminal investigation or prosecution;
- c.** Providing timely update to the Secretary of Justice on all pending or ongoing investigations on a periodic basis or upon direction by the Secretary of Justice;
- d.** Following up, investigating and inquiring suspicious transactions reports referred to by the Financial Institutions under the Anti-Money Laundering law;
- e.** Providing protective security detail to the President on a 24/7 basis, or as may be required and requested for the security needs of the Vice President and other high government officials. Protective detail may be provided to visiting foreign dignitaries and other VIPs upon request to the Secretary of Justice through Foreign Affairs;
- f.** Providing security to national elections upon request and coordination with Secretary of Justice;
- g.** Conducting general law enforcement activities and functions normally assigned to the National Police including the enforcement of national laws and regulations; and
- h.** Coordinating with State and Municipal law enforcement authorities, as may be necessary or essential, to preserve public peace, public order and general welfare of the population.

19. The functions and duties of the Division of Border Control and Maritime Surveillance include:
- a.** Enforcing Title 18 and Title 24 of the FSM Code, conducting surveillance operation and maritime security patrol over the territorial sea, exclusive economic zone, contiguous zone and continental shelves and any extensions thereof, of the FSM;
  - b.** Conducting joint maritime patrol with other countries to enforce fisheries laws and regulations and cooperating with international law enforcement partners;
  - c.** Exercising the security and protective functions of Customs and Quarantine as integrated and centralized border security and law enforcement jurisdiction of the FSM Government;
  - d.** Conducting search and rescue (SAR) operations during emergency situations and on request by State authorities, and providing emergency responses when needed, including medivacs;
  - e.** Managing and allocating patrol boat assets of the FSM and making recommendations to Secretary of Justice with respect to maintenance and usage of the Maritime Surveillance Revolving Fund;
  - f.** Providing assistance to National Election Director during national elections, subject to cooperation and timely request for assistance;
  - g.** Providing update on SAR operations and informing Secretary of Justice on any material information regarding the status, condition, activities and deployment of patrol boats; and
  - h.** Keeping Secretary of Justice fully informed of status of border security of FSM, providing regular briefing on any security issues or threats on any part of the nation, and presenting intelligence information that may be material to the maritime or border security of the nation.
20. The functions and duties of the Division of Anti-Human Trafficking Services include:
- a.** Coordinating with the National Police and investigating reports and complaints involving possible cases of trafficking in persons or such other offenses relating to human trafficking;
  - b.** Interviewing witnesses, gathering evidence, and reporting to Secretary of Justice on the progress of criminal investigations;

- c.** Developing plans or training programs for investigators specializing in investigating human trafficking;
- d.** Prepare, develop, and recommend to Secretary of Justice programs for protection of victims and witnesses of human trafficking cases and to report the establishment of shelters or homes for human trafficking victims;
- e.** Conducting public awareness campaigns on issues involving trafficking in person and human smuggling with civil society and NGO's; and
- f.** Coordinating with other public departments, agencies, and offices of national and state governments in relation to activities of combatting human trafficking.

21. The function and duties of the Cybersecurity Unit include:

- a.** lead the government's efforts in safeguarding our nation, institutions and citizenry from the risks and threats of cybercrime.
- b.** provides expert digital forensics support to the Division of Investigations;
- c.** conducts cyber investigations;
- d.** Assist in the formulation of cybercrime law particularly to
  - i.** identifies standards of acceptable behaviour for information and communication technology (ICT) users;
  - ii.** establishes socio-legal sanctions for cybercrime;
  - iii.** protects ICT users, in general, and mitigates and/or prevents harm to people, data, systems, services, and infrastructure, in particular; protects human rights;
  - iv.** enables the investigation and prosecution of crimes committed online (outside of traditional real-world settings);
  - v.** and facilitates cooperation between countries on cybercrime matters;
  - vi.** provides rules of conduct and standards of behaviour for the use of the Internet, computers, and related digital technologies, and the actions of the public, government, and private organizations;
  - vii.** rules of evidence and criminal procedure, and other criminal justice matters in cyberspace; and regulation to reduce risk and/or mitigate the harm done to individuals, organizations, and infrastructure should a cybercrime occur.



### **III. PILON strategic priorities**

#### **A. Cybercrime**

22. With respect to cybercrime and cybersecurity, FSM has previously reported that a Cybercrime bill was submitted to the 19<sup>th</sup> FSM Congress but was unfortunately not acted upon as it was submitted near the end of the term of the 19<sup>th</sup> Congress. FSM has participated in numerous cybercrime workshops, the most recent of which is the Cybercrime Conference held in the FSM in January, 2020, and these workshops has greatly contributed to the development of this working draft. FSM acknowledges that due to the Covid-19 Pandemic, the FSM government and other countries of the Pacific has gone online and started utilizing virtual platforms for continued coordination and cooperation, exacerbating the urgent need to have a cybercrime and cybersecurity Act in place.
23. The Cybercrime Bill, C.B. No. 22-69 is now before FSM Congress for their advice and consent action.

#### **B. Corruption**

24. FSM acceded to the United Nations Convention Against Corruption (CAC) in 2012, and since then has committed to eradicating corrupt practices of government officials.
25. FSM remains steadfast and committed to upholding the principles enshrined by the UNCAC to combat and eradicate corruption within the government. There are provisions under the FSM Criminal Code, which can be found under Title 11 of the FSM Code, prohibiting corruption within the government and providing penalties for corrupt acts of government officials.
26. FSM continues its work on a draft bill for whistle-blowers' protections. This bill intends to enact protective measures under Title 11 of the FSM Code to protect government employees who report corruption and other misconduct of high officials within the FSM National Government. Such whistle-blowers will be free from adverse actions by their superiors pertaining to their employment.
27. FSM Anti-Corruption Strategy Workshop. On August 13, 2021, FSM Department of Justice hosted a workshop where all relevant stakeholders from national government, state government, private sector and others convene to continue its collaborative work on development, review and consultation on FSM Anti-Corruption Strategy. Anti-corruption Strategy is a living document that sets out the main pillars of anti-corruption, priorities, objectives, and expected outcomes. Periodic review and examination will be conducted as the Strategy is tested against practical application. It is expected that updates or modification will be incorporated. Practices and feedbacks from actual implementation will inform further consultation among stakeholders.

### **C. Sexual and Gender-Based Violence (SGBV)**

28. The national laws of the FSM, including the Criminal Code under Title 11 of the FSM Code, as amended, do not address sexual offenses as this is an area of the law which is relegated to the States.
29. Sexual and gender-based violence crimes fall under the jurisdiction of the four State governments of the FSM. Nevertheless, the FSM National Government plays a vital role to facilitate and coordinate joint-effort in addressing SGBV issues in FSM.
30. The Criminal Codes of all the four States of the FSM have provisions criminalizing sexual assault and sexual abuse. The State of Pohnpei has recently passed a law (S.L. No. 9L-105-19) which sets the minimum age of consent at eighteen (18) years. This law was passed by the 9<sup>th</sup> Pohnpei Legislature on February 18, 2019 and was signed into law by the Governor of Pohnpei State on March 20, 2019.
31. The language of Pohnpei S.L. No. 9L-105-19 is gender-neutral, and it provides that any person who intentionally has sexual contract or sexual penetration with another person who is less than 18 years of age shall be guilty of sexual abuse. Similar provisions also exist under Chuuk State law by the enactment of Chuuk State Law 12-14-18 in 2018.
32. Pohnpei S.L. No. 9L-105-19 also sets the minimum age for a person to enter into a valid marriage. This law provides that no person who is under 18 years of age may enter into a legal state of marriage in the State of Pohnpei. Any purported marriage involving a person who is below 18 years of age, whether by civil ceremony, religious ceremony, traditional customs or any other means, is invalid.
33. The Pohnpei State Legislature also passed Pohnpei's Domestic Violence Act on November 7, 2017, and the same was signed into law by the Governor of Pohnpei State on December 12, 2017. The Pohnpei Domestic Violence Act aims to preserve and promote harmonious relationships in domestic affairs and to prevent the perpetration of acts of violence within the families of Pohnpei State. The evidentiary rules regarding spousal privileges do not apply to any proceedings involving domestic violence in which the victim is the spouse of the perpetrator.

### **IV. Significant issues (including COVID-19) impacting the law and justice sector, and options to address these issues**

34. Lack of adequate funding and lack of required expertise are prevalent issues affecting the law and justice sector of FSM. There is a need to expand the human resources (lawyers, prosecutors, police officers, judges or justices) for both the national and state governments.

35. An essential element of the law and justice sector is continued legal education (CLE). Lawyers, judges, and other law enforcement personnel have to undertake continued legal education to keep themselves updated on the development of laws in FSM. There is no such system of continued legal education within the FSM, and one must endeavor to keep educating oneself on the legal developments.
36. In the absence of sufficient funding to address these issues, the only options for FSM is to tap into free trainings that are relevant to the law and justice sector. In addition, FSM is also reliant upon its key partners, including the United States, Japan, China, and other developed nations which provide financial assistance and technical training to FSM.
37. As previously mentioned, Covid-19 has negatively impacted the FSM in many ways, including the law and justice sector. Border closures have made it extremely difficult to move supplies and personnel between the States of the FSM.
38. In FSM, judges, lawyers, police officers and witnesses are often required to travel from one State to another to handle cases that are to be heard in that State. However, in the context of Covid-19, this has been almost impossible, and many pending cases have their deadlines and scheduled hearings postponed due to the inability to move personnel across the States.
39. In many cases, the courts have adopted special measures to address this issue, including, but not limited to, telephonic conferences wherein both parties, located in different States, are able to present their arguments for that particular hearing. There has also been an experience where the accused is in one state and the defense attorney is in a different state. In that case, in addition to the telephonic conference, the court made sure that the accused and his defense attorney have a separate secure line over which they can communicate about the proceedings and the accused's options.
40. Serious challenges have also been posed towards FSM's protection of its borders and its maritime zones in the context of Covid-19. The main most effective method of making sure fishing vessels comply with the laws and regulations governing activities within its maritime zones is by placing human observers on board fishing vessels. The Covid-19 Pandemic has prompted the FSM Government to pull back most, if not all, its observers on-board fishing vessels to protect them from the Covid-19. This has affected FSM's ability to ensure that fishing vessels remain compliant with the FSM laws and regulations while carrying out fishing activities within FSM's boundaries.

**V. Significant initiatives/projects involving the member country and its law and justice sector**

41. FSM has initiated efforts to gain membership in the International Criminal Police Organization (INTERPOL). FSM is still waiting for INTERPOL's approval of its

membership. FSM seeks support from PILON country members towards FSM's proposed membership in INTERPOL.

42. FSM is also proud to report to the PILON community that FSM has completed all negotiations with its neighboring states in delineating their overlapping maritime zones. These treaties were successfully negotiated and deposited with the United Nations Division for Ocean Affairs and the Law of the Sea (UN DOALOS). In its submission to DOALOS, FSM also submitted a statement to the effect that FSM is not obligated to update its baselines even if the baselines are changed due to the impacts of climate change and sea level rise.
43. FSM also has ongoing extension of continental shelf projects. One of the continental shelf claims, which is the Ontong Java Plateau – a joint submission together with PNG and Solomon Islands – was favorably recommended by the UN Commission on the Limits of the Continental Shelf.

## **VI. Technical legal assistance**

44. FSM continues to require further technical assistance from its partners, including the PILON community. FSM DOJ has identified that there is an urgent need for technical assistance in relation to its deep sea mining framework. The National Seabed Resources Act has been enacted by the 20<sup>th</sup> Congress and signed into law by the FSM President in July, 2018. It is FSM's hope that its partners, including PILON, could provide assistance/guidance in the implementation of its seabed resources legal framework.
45. Further technical assistance is also needed human trafficking, drug trafficking, and international ships and crews registry. FSM looks forward to further trainings sponsored by its partners, including PILON, targeted towards training of prosecutors and police investigation trainings in these areas.

## **VII. Contact information for key law and justice agencies**

<b>Agency</b>	<b>Key responsibilities</b>	<b>Contact person and position</b>	<b>Phone number and email</b>
FSM Department of Justice	DOJ is the legal arm of the FSM National Government, mandated to enforce all laws of the nation.	Joses R. Gallen – Secretary/Attorney General	(691) 320- 2644/2608

FSM Supreme Court	Interpret the laws of FSM and hear and decide cases	Beauleen Car-Worswick-Associate Justice	(691) 320-2357
FSM Congress Attorney	Advice Congress members on bills, resolutions, and other matters before Congress and drafting Congress instruments	Lam Dam – Legislative Counsel	(691) 320-
FSM Public Defender's Office	Represent accused persons in criminal cases	Timoci Romanu – Acting Chief/Director	(691) 320-2648
FSM Public Auditor's Office	Audit financial accounts and activities of FSM funds and prepare audit reports	Haser Hainrick – Public Auditor	(691) 320-2863
Kosrae State Attorney General's Office	Enforce the laws of the State of Kosrae	Aliksa B. Aliksa – Attorney General	(691) 370-3043
Chuuk State Attorney General's Office	Enforce the laws of the State of Chuuk	Mohammed Kutty– Attorney General	(691) 330-2572
Yap State Attorney General's Office	Enforce the laws of the State of Yap	Eliesa Tuiloma – Acting Attorney General	(691) 350-2105
Pohnpei State Attorney General's Office	Enforce the laws of the State of Pohnpei	Monaliza Abello Pangelinan – Acting Attorney General	(691) 320-2356
Customs & Tax Administration	Collecting levies and taxes, protecting FSM's borders and facilitating trades	Cathy Mori – Deputy Assistant Secretary	(691) 330-4482

Chuuk Field Office			
Customs & Tax Administration Yap Field Office	Collecting levies and taxes, protecting FSM's borders and facilitating trades	Francis Gilpong – Deputy Assistant Secretary	(691) 350- 2272
Customs & Tax Administration Kosrae Field Office	Collecting levies and taxes, protecting FSM's borders and facilitating trades	William Mongkeya – Deputy Assistant Secretary	(691) 370-3010
Customs & Tax Administration Pohnpei Field Office	Collecting levies and taxes, protecting FSM's borders and facilitating trades	Kohler Carl – Deputy Assistant Secretary	(691) 320-5508