

Migration in the Federated States of Micronesia

A COUNTRY PROFILE 2015



International Organization for Migration (IOM)

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IOM Development Fund
DEVELOPING CAPACITIES IN MIGRATION MANAGEMENT



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FOREWORD

Like many small island developing States (SIDS), the Federated States of Micronesia faces many challenges in its quest for greater sustainable development and economic stability. So exceptional are the problems faced by SIDS that their special development needs were specifically mentioned in the United Nations' Sustainable Development Goals and reiterated in the SIDS Accelerated Modalities of Action (SAMOA) Pathway in September 2014. It is recognized that the ability of SIDS, such as the Federated States of Micronesia to sustain high levels of economic growth and job creation has and continues to be affected by the ongoing adverse impacts of the global economic crisis, declining foreign direct investment, trade imbalances, lack of adequate connectivity, energy and information and communications technology infrastructure networks, limited human and institutional capacity and the inability to integrate effectively into the global economy. The growth prospects of these States will also continue to be hindered by other factors, including the impact of climate change. Micronesia, through the Compact of Free Association signed with the United States, receives significant direct assistance to assist in its path towards economic self-sufficiency. In addition to tourism, which is slowly growing, emphasis should be placed on the potential that Micronesia has through its 2,996,410 sq. km. Economic Exclusive Zone and focusing more towards an ocean-based economy.

International migration trends in the Federated States of Micronesia have been shaped by the possibilities offered to the Micronesians to move and work freely in the United States since 1986. However, from the data collected in this first Migration Profile, the potential that migration can bring to the socioeconomic development of Micronesia is still untapped. If adequately managed, migration can enable economic development by providing the necessary skills, labour and innovation, such as through contributions of transnational and diaspora communities. The important vulnerability, however, of the Federated States of Micronesia to the damaging impacts of natural disasters and induced displacement ought to be carefully monitored. The recent Super Typhoon Maysak in March 2015, which affected 29,000 persons and damaged nearly 615 houses, is a vivid example of the risk. On the other hand, migration can also constitute an adaptation strategy to environmental change, confirmed in the recently adopted Sendai Framework for Disaster Reduction (2015–2030).

While migration to and within Micronesia has been increasing, available information and data on migration patterns and projections are still lacking. This first edition of the Migration Profile for the Federated States of Micronesia aims to support a stronger evidence-based policymaking to government and other migration management practitioners, and by ensuring that relevant government officials have the skills, tools and knowledge to regularly collect, consolidate, analyse and report on migration data. It should also constitute the basis of understanding on how migration can contribute to national development priorities within the four States of the Federated States of Micronesia.

The Migration Profile of the Federated States of Micronesia resulted from a series of consultations involving more than 30 governmental agencies, civil society organizations and private sector representatives over a period of six months. These consultations allowed collating a comprehensive collection of migration data sets, analysis of gaps and identification of challenges. I would like to express my appreciation and sincere thanks to the Government of the Federated States of Micronesia for their support and efforts in finalizing with IOM this first Migration Profile for the Federated States of Micronesia.



Stuart Simpson

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IOM Micronesia

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CNMI	Department of Commerce Central Statistics Division
Hawaii:	University of Hawaii East-West Center
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ABBREVIATIONS AND ACRONYMS

ACS	American Community Survey
COFA	Compact of Free Association
COM	College of Micronesia
COMET	College of Micronesia Entrance Test
CNMI	Commonwealth of the Northern Mariana Islands
FSM	Federated States of Micronesia
GCC	Guam Community College
HIES	Household Income and Expenditure Survey
ILO	International Labour Organization
IOM	International Organization for Migration
JEMCO	Joint Economic Management Committee
MRC	Migrant Resource Centre
OIA	Office of Insular Affairs
PUMS	Public Use Microdata Sample
SBOC	Office of Statistics, Budget and Economic Management, Overseas Development Assistance, and Compact Management
SPC	Secretariat of the Pacific Community
TFR	Total fertility rate
TTPI	Trust Territory of the Pacific Islands
UFCP	United Filipino Community of Pohnpei
UNCLOS	United Nations Convention on the Laws of the Sea
UNDP	United Nations Development Programme
UN DESA	United Nations Department of Economic and Social Affairs
UNSD	United Nations Statistical Division
UOG	University of Guam

EXECUTIVE SUMMARY

The Federated States of Micronesia consists of four island States of about 600 mountainous volcanic islands and coral atolls in the Western Pacific in the east of the Philippines and south of Japan and Guam, scattered over some 3 million sq. km. of ocean. Its land area is approximately 702 sq. km., and the Federated States of Micronesia's exclusive economic zone is about 2,780,000 sq. km.

Micronesians did not traditionally migrate. The first recorded Micronesian-wide censuses were carried out by Japan between 1920 and 1935 and showed almost no State-to-State migration. The United States-administered censuses showed similar results within Micronesia and to Guam, Saipan and the United States itself. The Federated States of Micronesia has experienced almost no immigration – either internal or international – at any time during the century of census activity. A new wave of emigration from the Federated States of Micronesia was set in motion in 1986 when the Pacific Island State signed a Compact of Free Association (COFA, “The Compact”) with the United States. More importantly, it provided citizens of the Federated States of Micronesia with the right to migrate freely to the United States and its territories and commonwealths. The pace changed quickly. In 1980, about 1,000 were born outside the country, and the number grew very quickly to reach about 50,000 in 2012.

The Federated States of Micronesia faces many challenges to encourage investment. The country is isolated and has limited connectivity and inadequate tourism facilities. The small number of foreigners born in the Federated States of Micronesia has not played a significant investment role. Part of the reason for this situation is the difficulty in obtaining business licences and doing business in the Federated States of Micronesia. Nonetheless, about 3,000 foreigners by birth were working in the Federated States of Micronesia in 2010. About 15,000 adults were employed either in the public or private sectors in the Federated States of Micronesia in 2010, and about 1,400 were born in other countries, amounting to 10 per cent of the active population. The foreign-born made up 15 per cent of all the private sector workers, and more than 4 per cent of the public sector workers, most from the United States and the Philippines.

The COFA provided the Federated States of Micronesia with important economic development aid. While the country benefits from substantial funding through the Compact, emigration is explained by the pressures of a growing population with poor economic development and investment prospects. As long

as the economic climate remains dismal, migration becomes the safety valve for Micronesians wanting more than a subsistence lifestyle. The Government of Micronesia has not been able to provide jobs, adequate health facilities, as well as secondary and tertiary education needed to attract investment and keep young graduates on the islands. Already about one in every three born from the Federated States of Micronesia (and first-generation descendants) are outside the islands. Such emigration trend is most likely going to continue apace as long as the population in the Federated States of Micronesia continues to be wage-dependent, unemployed or underemployed.

Adequate policies will need to be developed to adequately respond to these important challenges for the Federated States of Micronesia. It has developed an Overseas Development Assistance Strategy,¹ with the aim to manage development assistance provided to the Federated States of Micronesia to ensure benefits are maximized for all stakeholders – ensuring “positive, sustainable outcomes for individuals, communities, organizations and governments”.² This is an excellent proactive step in seeking to direct external donor development assistance to where it will be of most benefit to the Federated States of Micronesia.

¹ Federated States of Micronesia, Policy for Overseas Development Assistance, July 2013.

² Ibid.

INTRODUCTION

Table 1: Key figures of the Federated States of Micronesia

Official name	Federated States of Micronesia
Area	702 sq. km.
Capital city	Palikir
Status	Associated State since 3 November 1986
Political system	Federal parliamentary republic
Legislature	Congress
Administrative distribution	25 districts
Main branch of economic activity	Agriculture (26.3%); industry (18.9%); and services (54.8%)
Official language	English
Recognized regional languages	Pohnpeian, Chuukese, Kosraen, Yapese
Population at last census (2010)	102,843
Population latest mid-year estimate (2015)	105,216
Population density (2013)	158.1/sq. km.
Life expectancy at birth (2013)	72.62 years
Labour force (Household Income and Expenditure Surveys (2010))	37,920
Age structure	0–14 years: 31.34%
	15–24 years: 20%
	25–54 years: 38.41%
	55–64 years: 6.72%
	65 years and over: 3.53%
Unemployment rate (% of labour force)	16.2%
Religion (main groups) (2010 est.)	Roman Catholic (54.7%); Protestant (41.1%), includes Congregational (38.5%), Baptist (1.1%), Seventh Day Adventist (0.8%), Assembly of God (0.7%), Mormon (1.5%); Others (1.9%); None (0.7%); Unspecified (0.1%)
Literacy rate for ages 10 and more (2010 Census)	92.4%
Nominal GDP per capita, 2012 (in current USD) <i>Provisional</i>	USD 1,832
Gini for the distribution of income (2006/2007 Household Budget Survey)	46%
Human development index (2014) value and rank among 186 countries	
Source: UNDP Report 2015; http://hdr.undp.org/sites/default/files/2015_human_development_report_1.pdf , 2015, NY, USA.	0.640 (123rd)
Currency	US dollar (USD)

The Federated States of Micronesia is made up of four States: Yap, Chuuk, Pohnpei and Kosrae. It consists of about 600 mountainous volcanic islands and coral atolls in the Western Pacific east of the Philippines and south of Japan and Guam, scattered over some 3 million sq. km. of ocean. Land area is approximately 701 sq. km., and the Federated States of Micronesia's exclusive economic zone is about 2,780,000 sq. km. The Federated States of Micronesia has one of the largest tuna fisheries in the Pacific. The Federated States of Micronesia is very vulnerable to natural disasters, particularly typhoons, which affect potential economic development and partly perpetuates increased emigration.

Portuguese explorers in search of the Spice Islands (Indonesia), and subsequently the Spanish, reached the Carolines in the sixteenth century. The Spanish incorporated the archipelago to the Spanish East Indies, and in the nineteenth century, established a number of outposts and missions. In 1887, they founded the town of Santiago de la Ascension in what today is Kolonia on the island of Pohnpei. Following defeat in the Spanish–American War, the Spanish sold the archipelago to Germany in 1899 under the German–Spanish Treaty of 1899. Germany incorporated it into German New Guinea. During World War I, Micronesia was captured by Japan and following the war, the League of Nations awarded a mandate for Japan to administer the islands as part of the South Pacific Mandate.

The United States took administration of Micronesia under United Nations (UN) auspices in 1947 as part of the Trust Territory of the Pacific Islands. On 10 May 1979, four of the Trust Territory districts ratified a new constitution to become the Federated States of Micronesia. Palau, the Marshall Islands and the Northern Mariana Islands chose not to participate. The Federated States of Micronesia signed a Compact of Free Association (COFA) with the United States, which entered into force on 3 November 1986, marking Micronesia's emergence from trusteeship to independence. Independence was formally concluded under international law in 1990, when the UN officially ended the trusteeship status pursuant to Security Council Resolution 683. The Compact was renewed in 2004.

PART A: DATA SOURCES ON MIGRATION IN THE FEDERATED STATES OF MICRONESIA

Different data sources can be used to assess international migration and determine the various migrant population groups. While censuses are the main source of data, many countries have used other types of data sources, such as national surveys (for instance labour force, household or migration surveys), administrative registers (such as population, alien and consular registers) and other administrative data collected by immigration/emigration authorities (such as residence permits, work permits and asylum applications, as well as data from border control).

A. I. Statistical data sources on migration

A. I. I. Data from censuses

Censuses constitute the most important tool for the collection of population data, such as those on international migration. Population and housing censuses compute the usual resident population of a country. Consequently, these tend to be good sources of information on the number of migrants living in a country at a given point in time (the so-called stock of migrants). Some countries have used their census in an attempt to estimate and characterize the stock of emigrants. However, because of relatively low frequency (usually carried out every 10 years), censuses have limitations in terms of measuring migrant flows (the number of migrants entering or leaving a country in a given time period). More generally, censuses are also limited by the number of questions asked, which means that obtaining detailed information on migration processes is usually not feasible. Specific surveys on migration are therefore required for the collection – on a sample basis – of more detailed information on migrant population.

In theory, the census counts the total resident population, thus allowing the retrieval of statistics on all population groups relevant to international migration, irrespective of their citizenship, country of birth or even legal status. Censuses may collect data on individuals' country of birth and country of citizenship, thus offering several possibilities for the identification of migrant population groups. The census collects data related to the basic demographic and socioeconomic characteristics of individuals, thereby allowing for the cross-classification of migration characteristics with variables, such as age, sex, employment, education

and household composition. It can also provide data on immigration inflows, when questions relating to place of residence in the past are asked. Given that this information is self-reported, its reliability can be questionable. Since censuses only take into account the movements of individuals who are present at the time the censuses were carried out, these do not reflect departures or deaths that may have occurred between two consecutive censuses. This can result in an important underestimation of migration flows as those immigrants who arrived and left between these two censuses cannot be accounted for.

Moreover, censuses can only count immigrants who are still living in the country at the time of a census, thus excluding those who have emigrated before the census date. Attempts at collecting data on emigrants are often unsuccessful once these individuals have left the country and any information received from remaining family or household members may not always be accurate. By addressing questions to a household member on how many household members have left or are currently abroad, it may be possible to estimate both emigrant stock and flow. However, such information is likely to result in an underestimation of the number of emigrants. The common example is when there is nobody to report on the emigration if all household members have left the country. Censuses are, consequently, more focused on immigrant population stocks than migration flows.

In Micronesia, it is only at the beginning of the 1920s that the Japanese started collecting quinquennial census information, from 1920 to 1935, and in 1940 (although those data are apparently lost), as illustrated in Table 2. After Japan was defeated in World War II, the United States took over, but did not conduct a first full census until 1958. The 1958 results were used as proxy for the 1960 US Census, which is conducted decennially. The United States started through the support of the Peace Corps carrying full census in 1966 and 1967. The 1970 US Census had major geographic problems, and so is not included in the list below. Because the Trust Territory of the Pacific Islands (TTPI) was unsatisfied with the results of the 1970 US Census, it conducted its own full census in 1973. The 1980 US Census was the last one undertaken by the Census Bureau since the Federated States of Micronesia (FSM) became independent. Various agencies have since then assisted the four Federated States of Micronesia States in carrying a series of State censuses in the 1980s (Pohnpei in 1985, Kosrae in 1986, Yap in 1987 and Chuuk in 1989), which were subsequently led by the Office of Statistics, Budget and Economic Management, Overseas Development Assistance, and Compact Management (SBOC), Government of the Federated States of Micronesia (Census 1994, 2000 and 2010).

Table 2: The Federated States of Micronesia’s population distribution by State, 1920 to 2010

Census Year	Numbers					Per cent				
	Total	Yap	Chuuk	Pohnpei	Kosrae	Total	Yap	Chuuk	Pohnpei	Kosrae
1920	29,660	8,338	14,788	5,748	786	100.0	28.11	49.86	19.38	2.65
1925	29,810	7,366	14,961	6,597	886	100.0	24.71	50.19	22.13	2.97
1930	29,727	6,486	15,200	7,051	990	100.0	21.82	51.13	23.72	3.33
1935	29,920	6,006	15,129	7,596	1,189	100.0	20.07	50.57	25.39	3.97
1958	39,289	5,540	20,124	11,258	2,367	100.0	14.10	51.22	28.65	6.03
1967	50,172	6,761	25,107	15,044	3,260	100.0	13.48	50.04	29.98	6.50
1973	62,357	7,870	31,609	18,926	3,952	100.0	12.62	50.69	30.35	6.34
1980	73,159	8,100	37,488	22,080	5,491	100.0	11.07	51.24	30.18	7.51
1989	95,740	10,365	47,871	30,669	6,835	100.0	10.83	50.00	32.03	7.14
1994	105,506	11,178	53,319	33,692	7,317	100.0	10.59	50.54	31.93	6.94
2000	107,008	11,241	53,595	34,486	7,686	100.0	10.50	50.09	32.23	7.18
2010	102,843	11,377	48,654	36,196	6,616	100.0	11.06	47.31	35.20	6.43

Source: Nan'yo-cho (1927, 1931, 1937); Office of the Census Coordinator (1975); Office of the High Commissioner (1959); School of Public Health (n.d.); US Bureau of the Census (1972, 1983a); Yap Office of Planning and Budget (1992a, 1988, 1989); 1994 FSM Census Table P13; 2000 FSM Census Table P2-1.³

As shown in Table 2, the population remained under 30,000 during the 1920s and 1930s. The first US full census in 1958 showed almost a doubling of the population since 1935. The population continued to increase, as measured by the 1967 Peace Corps Census and the 1973 TTPI Census, and then again in the 1980 US Census.

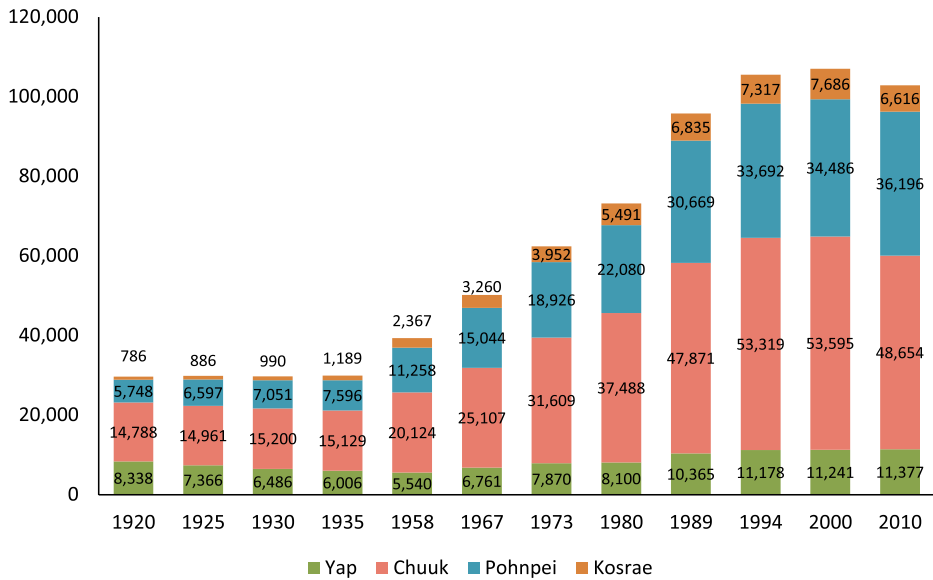
Figures 1 and 2, for 1989, uses the 1989 Chuuk census as base, and interpolates the figures (using the 1980 and 1994 censuses) for the other three States to obtain estimates for 1989 overall. In the 1920s and 1930s, Chuuk had about half the population of what became the Federated States of Micronesia.⁴ That figure did not change much over the period of these censuses, although it now seems that Pohnpei will continue to grow into the near future as more and more of Chuuk’s population are emigrating for Guam, Hawaii and the US Mainland (and the military.) Pohnpei’s percentage of the population increased in the early years until about 1970, and Kosrae increased its part of the total population during the 1920s through the 1960s to about 6 per cent, where it has remained. Yap’s percentage, though, declined from the beginning, to about

³ The 1989 population is an interpolation from the mid-1980 Censuses, except for Chuuk. Population data for 1920–1935 are for Pacific Islanders only.

⁴ The names of the States changed over time: Kusaie became Kosrae, Ponape became Pohnpei, Truk became Chuuk, and Yap is sometimes referred as Waab. The names are used interchangeably in the text.

11 per cent in 1980, where it has remained since. In the early years, various diseases kept the population low, but better health has not stopped the recent outflow.

Figure 1: FSM population by State, 1920 to 2010



Source: Nan'yo-cho (1927, 1931, 1937); Office of the Census Coordinator (1975); Office of the High Commissioner (1959); School of Public Health (n.d.); US Bureau of the Census (1972, 1983a); Yap Office of Planning and Budget (1992a, 1988, 1989); 1994 FSM Census Table P13; 2000 FSM Census Table P2-1.

Figure 2a: FSM population distribution of the States, 1920

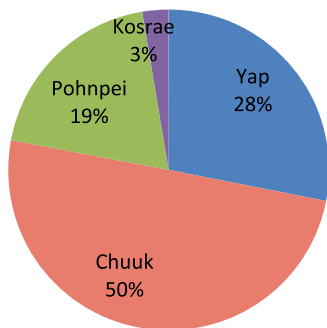
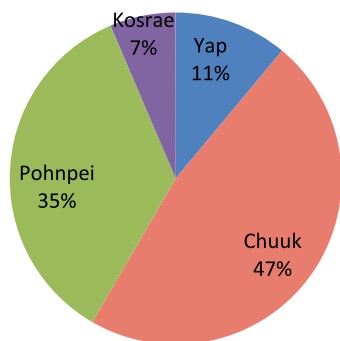


Figure 2b: FSM population distribution of the States, 2010



The Peace Corps has had an enormous influence on education and health in Micronesia. The Peace Corps first came to Micronesia in 1966, and at one point, apocryphally, supposedly one Peace Corps volunteer for every 100 people on Yap. As part of their work at the beginning, the Peace Corps took a full census, mostly focusing on health issues. There is therefore very little information on migration. It is important to note that it is not clear whether this census was de facto (where respondents were at the time of the census) or de jure (their usual residence), and, in fact, seems to have been a combination of both. Some of the microdata survived and were used for this study.

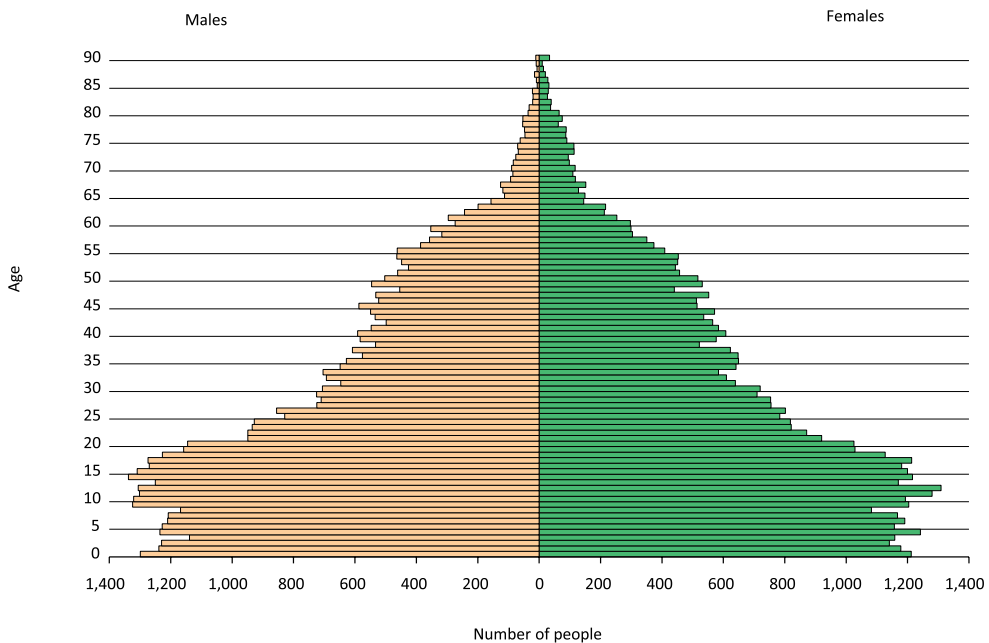
The US Census Bureau attempted to do a full census in 1970. Unfortunately, the adviser assigned to oversee the data collection worked from Hawaii. For that reason, or for some other reasons, the tabulated geography was not what it should have been. Atolls, such as Losap, Nama and Mogmog, which should have had people resulted as not having any, and islands and atolls that should have been uninhabited, such as Gaferut, showed results as having many inhabitants. The municipalities of Kanifay, Tomil and Weloy on Yap Proper appeared uninhabited, decreasing the population of Yap Proper – and since those people were shifted to the Outer Islands, the population of the Outer Islands was suddenly much bigger than on Yap Proper. Hence, other characteristics were not possible. As with all US censuses, the microdata were not available to the areas being covered, and so no follow-up was possible. Also, the results could not be analysed for coverage or content, including the TTPI 1973 Census. Microdata exist for this and all the subsequent censuses and surveys, but not all are available for study.

The 1980 Federated States of Micronesia data and the Commonwealth of the Northern Mariana Islands (CNMI) and Guam data for 1980 all reside in the US Census Bureau and so are unobtainable for detailed analysis. However, some of the tables in this report were made available. The 2000 Census was the

second census by the Government of the Federated States of Micronesia since the implementation of the COFA, and the first census to be done completely internally. As in 1994, the census was a complete enumeration with all households and all persons responding to all the questions.

With regard to 1994 and 2000 censuses, the National and State offices have prepared comprehensive reports on the results, but that has yet to be done for the 2010 Census. The relevant data from these censuses is, inter alia, where people were born, where they were five years before the census (2005), and where they were at the time of enumeration. Very few Micronesians moved between States, so the measure unit for this analysis is the municipality. Figure 3 shows the population pyramid for the 2010 Federated States of Micronesia Census.

Figure 3: Population pyramid, 2010



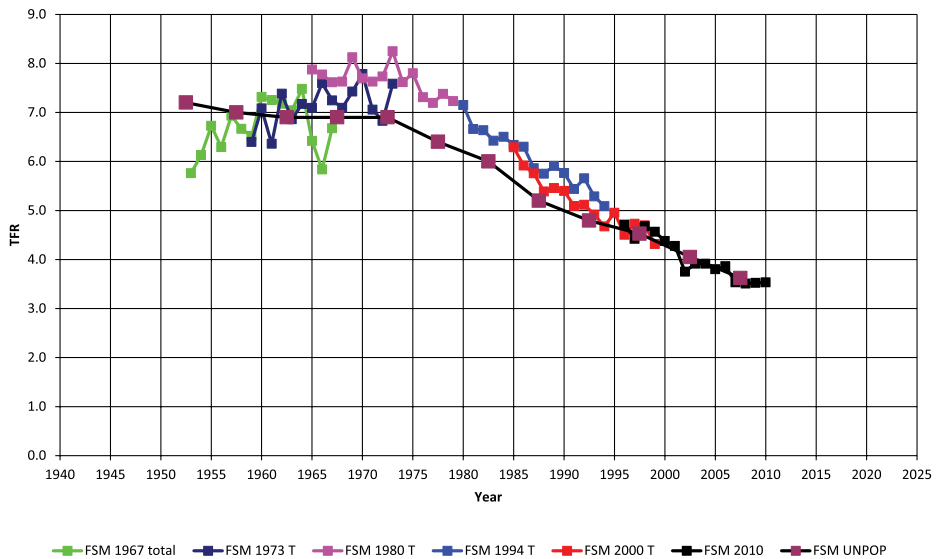
Source: 2010 Federated States of Micronesia Census of Population and Housing.

The population for the Federated States of Micronesia increased from 50,000 in 1967 to 107,000 in 2000, and decreased to 103,000 in 2010. Similar to the Marshall Islands, the Federated States of Micronesia is experiencing considerable emigration (see, for example, Hezel and Levin, 2012). Population density increased from 72 per sq. km. in 1967 to about 150 in 2010, basically doubling during the period. As noted, the increase would have been greater

except for a very strong emigration stream brought on by provisions in the COFA, allowing free movement to Guam, the CNMI, Hawaii and the US Mainland.

As with the other countries in Eastern Micronesia, the Federated States of Micronesia saw an initial increase in total fertility followed by a gradual decline – slower than Palau’s but more rapid than the Marshalls. The total fertility rate (TFR) started above 6 in the 1950s, at the beginning of the period with available microdata, and increased continuously to about 8 in 1970 before starting its decline. The TFR was about 7 in 1980, declined to 6 in 1985, 5 in 1995 and 4 in 2000, where it has remained or decreased slightly after that (see Figure 4).

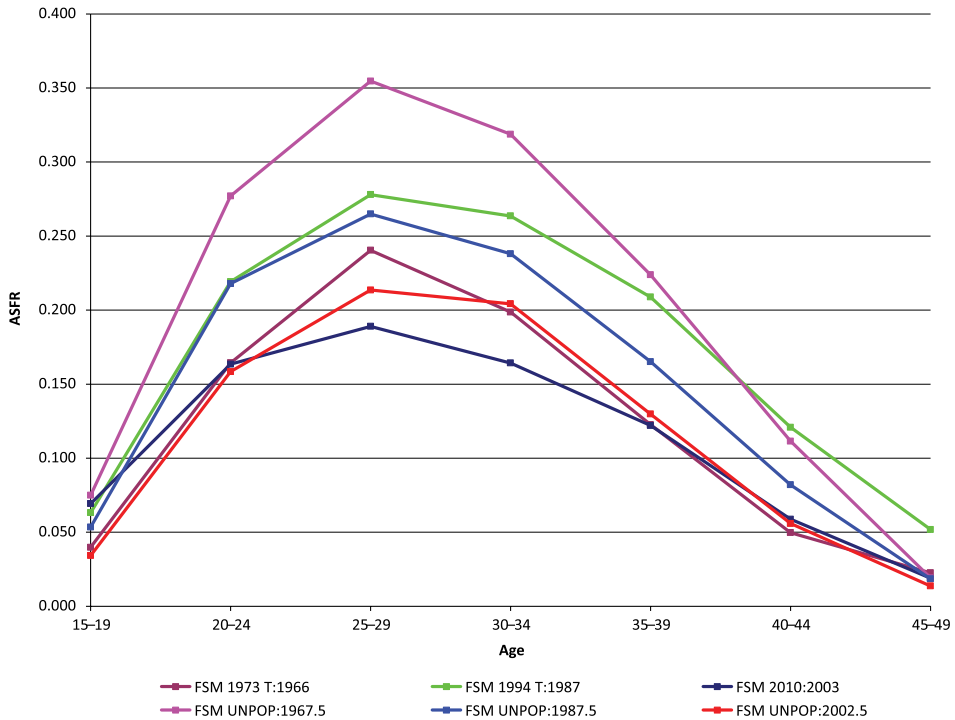
Figure 4: Total fertility rates for Federated States of Micronesia, 1952 to 2010



Source: 1967, 1973, 1980, 1994, 2000 and 2010, Federated States of Micronesia Census on Population and Housing.

Most censuses have shown peak fertility in the 25- to 29-year-old age group. See Figure 5 below.

Figure 5: Age-specific fertility rates, mid-periods before census, 1973 to 2010



Source: 1967, 1973, 1980, 1994, 2000 and 2010 Federated States of Micronesia Census on Population and Housing.

In the Federated States of Micronesia, death registration is not complete, partly because some deaths occur outside the country and are not reported back. Age-specific death rates are also difficult to obtain, partly for the same reasons. Another indirect measure is obtained from a life table. A life table can be obtained from the age-specific death rates, or a model can be used. The following life table (Table 3) related to females in 2010 based on the Federated States of Micronesia Census. The female life expectancy at birth was 69.5 years, meaning that a female baby born in 2010 had an average life expectancy of 69.5 years. This rate is relatively high for the Pacific Islands.

Table 3: Female life table based on 2010 Census population and crude birth rate

x	n	nMx	nax	nqx	lx	ndx	nLx	5Px	Tx	Ex
0	1	0.0337	0.15	0.033	100,000	3,273	97,212	0.964	6,946,362	69.5
1	4	0.0022	1.47	0.009	96,727	862	384,730	0.993	6,849,150	70.8
5	5	0.0008	2.50	0.004	95,866	360	478,428	0.997	6,464,421	67.4
10	5	0.0006	2.50	0.003	95,505	289	476,806	0.996	5,985,993	62.7
15	5	0.0010	2.50	0.005	95,217	452	474,955	0.994	5,509,187	57.9
20	5	0.0014	2.50	0.007	94,765	638	472,230	0.993	5,034,232	53.1
25	5	0.0016	2.50	0.008	94,127	766	468,718	0.991	4,562,002	48.5
30	5	0.0019	2.50	0.010	93,361	905	464,540	0.989	4,093,284	43.8
35	5	0.0025	2.50	0.012	92,455	1,135	459,438	0.986	3,628,744	39.2
40	5	0.0033	2.50	0.017	91,320	1,507	452,831	0.980	3,169,306	34.7
45	5	0.0048	2.50	0.024	89,812	2,133	443,731	0.971	2,716,476	30.2
50	5	0.0071	2.50	0.035	87,680	3,056	430,758	0.957	2,272,745	25.9
55	5	0.0106	2.50	0.052	84,623	4,367	412,199	0.934	1,841,987	21.8
60	5	0.0168	2.50	0.080	80,256	6,457	385,140	0.896	1,429,787	17.8
65	5	0.0277	2.50	0.129	73,800	9,544	345,138	0.833	1,044,647	14.2
70	5	0.0468	2.50	0.210	64,255	13,473	287,594	0.738	699,509	10.9
75	5	0.0786	2.50	0.329	50,782	16,683	212,202	0.485	411,915	8.1
80	+	0.1707	5.86	1.000	34,099	34,099	199,713		199,713	5.9

Source: US Census Bureau Population Spreadsheet LTWST.

Note: nMx = age-specific central death rate.

nax = average person-years lived by those who die between ages x and x+n.

nqx = probability of dying between exact ages x and x+n (age-specific mortality rate).

lx = number of survivors at age x.

ndx = number of deaths occurring between ages x and x+n.

nLx = number of person-years lived between ages x and x+n.

5Px = survival ratio for persons aged x to x+5 surviving 5 years to ages x+5 to x+10 = 5Lx+5/5Lx (first 5Px = 5L0/5L0, second 5Px = 5L5/5L0, last 5Px = Tx+5/Tx).

Tx = number of person-years lived after age x.

Ex = life expectancy at age x.

Life expectancy has been increasing in the Federated States of Micronesia over at least the last half-century (Table 4). The following table of life expectancies in the Federated States of Micronesia since 1950 comes from the United Nations Department of Economic and Social Affairs (UN DESA). In the 1950–1955 period, the average Federated States of Micronesia resident lived about 54.6 years, with females living about one year longer than males. The life expectancy at birth in the 2005–2010 period was 68.4, so there was an improvement of about 12 years over the period considered. Females expanded their length of life over males during the 60 years.

Table 4: Life expectancy at birth, 1950–2010

Interval	Both sexes	Male	Female	Gender gap
1950–1955	54.58	54.05	55.15	1.10
1955–1960	56.58	56.05	57.15	1.10
1960–1965	58.58	58.05	59.15	1.10
1965–1970	60.59	60.05	61.15	1.10
1970–1975	62.69	62.15	63.25	1.10
1975–1980	64.77	64.25	65.35	1.10
1980–1985	65.35	64.81	65.91	1.10
1985–1990	65.93	65.38	66.48	1.10
1990–1995	66.49	65.94	67.04	1.10
1995–2000	67.05	66.50	67.60	1.10
2000–2005	67.58	66.92	68.20	1.28
2005–2010	68.35	67.56	69.11	1.55

Source: UN DESA (2014).

A.1.2. Sample surveys

Sample surveys are designed to collect data on a limited number of persons representing the population as a whole. Because only a sampled population is interviewed, such surveys are less costly and can be conducted more frequently. Household surveys such as censuses constitute rich statistical data collection tools compared to other data sources and allow more flexibility for the application of internationally recognized definitions and customized questions that are designed to meet specific needs of data users. The limitations of such sample survey relate mainly to the time frame, design and size of the sample, and to the fact that some population groups, such as recent migrants, cannot be reached. Compared to the census, sample sizes are relatively small and the surveys tend to be voluntary, leading to both sampling and non-sampling errors. Compared to the cross-sectional surveys conducted at one point in time, such as censuses, longitudinal surveys are more suitable for tracking migration processes over time. However, they are more difficult to organize than cross-sectional surveys, which can also measure historical data by asking retrospective life-history questions.

Household surveys are increasingly being used to estimate immigration flows and stocks, as well as emigration data (actual, intended or return), particularly in countries where other sources for regular/annual data are non-

existent. Household surveys are carried out frequently – in many cases, annually – and generally aim at covering the total resident population, thus including all population groups relevant to international migration.

In Micronesia, the Household Income and Expenditure Survey (HIES) aims to obtain information on the income, consumption pattern, incidence of poverty and saving propensities for different groups of people in the Federated States of Micronesia every five years. This information is used to guide policymakers in framing socioeconomic developmental policies and initiating financial measures for improving economic conditions of the people.

The HIES was first carried out in 1989 with no published outputs. The 2005 and 2013 Federated States of Micronesia HIES surveyed all 15 and over year-old persons and covered also non-Federated States of Micronesia citizens. In 1998 and 2005, the Office of Statistics carried out household income surveys with a similar methodology. However, the 2013 HIES adapted a common methodology, which was used in all Secretariat of the Pacific Community (SPC) countries. 1,380 households were surveyed in 2005. Section 11 on Individual Characteristics includes questions on migration namely on citizenship status (question 8) and residence five years ago (question 11a). The 2013 HIES questionnaire also includes interesting questions that could analyse the migration stock, profile and remittances in 2013–2014 (such as country of birth, type of activity, industry and income and remittances).

On the issue of the Federated States of Micronesia diaspora, the US Department of the Interior's Office of Insular Affairs (OIA) funded a series of emigrant surveys starting in 1992. The surveys used the snowball method to collect information on almost all migrants to Guam in 1992, 1997 and 2003, to the CNMI in 1993, 1998 and 2003, and to Hawaii in 1997 and 2003. In 2012, the Federated States of Micronesia's Congress funded sample surveys in Saipan, Guam, Hawaii and the US Mainland. Several other researchers have looked at social characteristics and problems of the migrants with smaller surveys (see, for example, Brekke, Filibert and Hammond (2008), Connell (1991), Roche and Willoughby (2002), Woo and Aguilar (1993)).

The most recent data on the Micronesian migrants come from four migrant surveys carried out in 2012 in Guam, Hawaii, Saipan and the US Mainland. The methodology and findings for these surveys appear in a report written by Hezel and Levin (2012), as well as on *Micronesians on the Move: Eastward and Upward Bound* (Hezel, 2013) and *Micronesian Migration in Historical Perspective* (Levin, 2014).

It is important to note that all three recent censuses of 1994, 2000 and 2010 used the definitions and methods of the US Census Bureau. Similarly, surveys of emigrants started in 1992 for Guam and 1993 for CNMI and used the same definitions and conventions, and almost identical collection instruments. The subsequent surveys of 1997/1998, 2003 and 2012 also all used these same methods. Hence, the data are for the almost completely comparable. The 1992/1993, 1997/1998 and 2003 surveys were close to censuses because efforts were made using the snowball method to obtain full counts of the Micronesians in CNMI, Guam and Hawaii.

A.1.3. Other secondary statistical data sources

The College of Micronesia (COM) in Pohnpei receives small numbers of foreign students, which are collected by the institution. The following table shows that the largest number of non-Micronesians studying at the COM was 45 in 2004, making up less than 2 per cent of the student population (Table 7). After that, the foreign student population was never more than 1 per cent of the total. The COM is mostly a two-year institution, so most graduates receive associate's degrees, although the school also has a few programmes that lead to a bachelor's degree. Foreigners made up a very small percentage of the COM graduates.

Table 5: Foreign students enrolled and graduated in COM, 2004 to 2013

Students	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Enrolled	45	18	13	6	5	4	9	9	9	16
Per cent	1.7	0.8	0.5	0.3	0.2	0.1	0.3	0.3	0.3	0.7
Graduates	...	...	...	...	...	3	1	1	0	1
Per cent	...	...	...	...	...	1.2	0.3	0.3	0	0.2

Source: COM, Pohnpei.

The Division of Immigration and Labor, Federated States of Micronesia's Department of Justice, collects foreign student permit statistics when foreign students need to obtain permits to study in the Federated States of Micronesia. Table 6 shows statistics on the 45 foreign student permits between 2006 and 2014. The number of foreign students was actually less than the 45 recorded because some of the students obtained more than one permit over the years of their study.

Table 6: Foreign student permits by characteristics, 2006 to 2014

Total students: 45					
Males	28	Females	17	Chuuk	11
Born before 1990	19	Born in Asia	27	Kosrae	10
Born 1990 to 1994	12	Born in the Pacific	17	Pohnpei	19
Born 1995 or later	14	Born elsewhere	1	Yap	5
Calendar year					
2006	5	2009	1	2012	8
2007	6	2010	3	2013	4
2008	8	2011	4	2014	6

Source: Federated States of Micronesia's Immigration and Labor Division.

A.2. Administrative data sources on migration

A.2.1. Border data crossings

Most countries possess a border management system, which collects administrative or statistical data from travellers entering and/or departing the country. The status of persons arriving and departing is established on the basis of documented evidence (such as passports, visas and residence permits), and statistical data are gathered via standardized forms (arrival and departure forms) filled in by arriving and departing passengers. According to international recommendations, migrants at any border should be identified according to their country of usual residence. Such method seems to be the best way to differentiate a migrant from any other travellers. The UN recommends gathering the following information: (a) intended duration of stay; (b) country of (usual) residence; (c) country of citizenship; and (d) purpose of stay. The intended duration of stay in the destination country is a key data to distinguish migrants from other travellers, as well as long-term migrants from short-term ones. For returning citizens, information on intended duration of stay in their own country provides the only means of identifying, among them, long-term incoming migrants if their duration of absence was at least 12 months. Therefore, obtaining information on the purpose of stay is one way of identifying the various categories of travellers. The UN strongly recommends that international migrant foreigners be classified according to the reason for their admission, as established by the receiving State (the intentions, desires or expectations of the migrant foreigner involved should not be the basis for classification). Departing citizens may be classified either according to the formal reasons for their admission by the receiving State or their own stated purpose for staying abroad, with the latter clearly being more practical.

Passenger cards (or border cards) are used for the collection of data on departures and arrivals through international borders. These data are used both for administrative purposes and producing statistics. Border control system obviously cannot generate data on stocks of immigrant or foreign populations residing in the country, nor can it always provide accurate data on migration flows, unless the majority of border crossings take place through official entry points. Moreover, it is important that administrative systems be able to distinguish between international migrants and all other international travellers, who are mostly tourists and businesspersons. Such systems are effective under specific geographical conditions (limited number of national border posts) and with developed administrative systems.

In Micronesia, these conditions are not necessarily met and therefore no attempt at analysing these data to produce statistical figures on international migrants was carried out for the preparation of this profile.

A.2.2. Entry and work permits

The Federated States of Micronesia's Department of Justice, Division of Immigration and Labor, administers entry permits for foreign workers entering the country to work. Table 7 summarizes the number of permits issued per year from 2007 to 2014. Slightly less than half of the permits issued each year are for private employment. The other permits show considerable diversity. However, a revision of the categories would be recommended.

The number of entry permits are higher than the number of workers, because most of the data, from censuses and surveys, are snapshots, while entry permits cover the whole year; some people will have an entry permit but leave before census enumeration, and other workers might arrive after the census and so not appear in it, but have entry permits nonetheless. In addition, workers entering the Federated States of Micronesia for employment of less than 90 days do not require an entry permit. From the table below approximately, 2,700 entry permits are issued each year.

Table 7: Issued entry permits, 2007 to 2014

Immigration classification	2007	2008	2009	2010	2011	2012	2013	2014
Total	2,277	2,535	2,599	2,724	3,135	2,874	2,738	2,702
A1 – Employ private	1,053	1,146	1,162	1,378	1,494	1,432	1,302	1,226
A2 – Dependent employ private	153	149	141	142	97	116	102	115
B1 – Missionary	47	56	63	49	47	56	70	80
B2 – Dependent missionary	8	18	19	6	8	16	17	16
B3 – Mission volunteer	64	47	57	55	65	72	67	55
B4 – Dependent mission volunteer	2	0	7	9	12	3	2	8
C1 – Researcher	1	5	4	8	7	9	10	8
C2 – Dependent research	0	1	0	0	0	0	0	2
D – Tourist air	29	54	26	32	11	22	30	23
D1 – Tourist vessel	8	13	19	25	7	23	22	22
E1 – Visit business	60	153	139	153	201	160	106	123
E2 – Visit no employ	196	237	255	259	309	206	210	253
E3 – Dependent visit E2	0	0	0	0	2	1	4	0
E4 – Crew on board	0	9	16	4	260	127	270	156
E5 – Crew disembark	0	0	0	0	2	3	3	1
E6 – Crew to ship	1	0	0	2	9	9	7	1
EWA – Expat worker	29	23	12	8	9	16	11	17
EWA2 – Dependent expat worker	14	15	5	0	3	3	0	4
F1 – Foreign government employ	68	125	202	109	82	69	49	92
F2 – Dependent foreign government employ	22	28	27	25	9	14	4	17
G1 – Government employ	145	140	162	142	155	159	139	145
G2 – Dependent government employ	69	73	72	73	53	59	34	46
G3 – US government employ	0	0	0	0	0	1	2	2
H2 – US Peace Corps staff	1	3	5	5	3	5	3	3
H3 – Dependent US Peace Corps staff	0	0	1	1	3	3	2	1
I – Spouse FSM citizen	60	38	30	36	35	32	31	43
I2 – Spouse non-citizen	0	0	0	24	85	93	82	91
I3 – Spouse deceased FSM citizen	0	0	0	1	2	1	1	3
J1 – Government employ other	66	64	63	61	61	52	62	54
J2 – Dependent government employ other	39	27	19	26	12	18	12	18
K1 – Foreign investment	51	36	31	37	35	41	44	38
K2 – Dependent foreign investment	26	12	9	9	9	16	7	12
L1 – Legislative/Judicial employ	3	5	3	2	4	0	0	0

L2 – Dependent legislative/judicial employ	2	0	0	0	0	0	0	0
LG1 – Local government employ	1	1	1	0	0	0	0	0
S1 – Foreign student	6	8	1	3	4	8	4	6
SP1 – Salesperson	53	49	48	40	40	29	29	21

Source: Federated States of Micronesia's Immigration and Labor Division.

Notes: EWA – expatriate worker authorization

E2 – Visit no employ

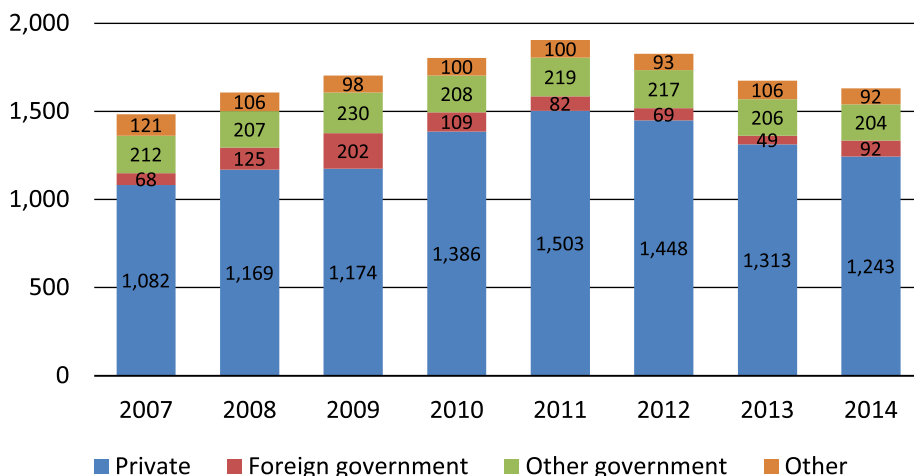
The Division of Immigration and Labor also issues work permits. Many of the people arriving in the islands and obtaining permits do not come to work, but rather visit or do missionary work or other activities. The following table (Table 8 and Figure 6) displays only workers with work permits.

Table 8: Issued work permits, 2007 to 2014

Immigration classification	2007	2008	2009	2010	2011	2012	2013	2014
Total	1,417	1,543	1,641	1,742	1,843	1,775	1,612	1,577
A1 – Employ private	1,053	1,146	1,162	1,378	1,494	1,432	1,302	1,226
EWA – Expat worker	29	23	12	8	9	16	11	17
F1 – Foreign government employ	68	125	202	109	82	69	49	92
G1 – Government employ	145	140	162	142	155	159	139	145
G3 – US Government employ	0	0	0	0	0	1	2	2
H2 – US Peace Corps staff	1	3	5	5	3	5	3	3
J1 – Government employ other	66	64	63	61	61	52	62	54
K1 – Foreign investment	51	36	31	37	35	41	44	38
L1 – Legislative/Judicial employ	3	5	3	2	4	0	0	0
LG1 – Local government employ	1	1	1	0	0	0	0	0

Source: Federated States of Micronesia's Immigration and Labor Division.

Figure 6: Work permits issued, 2007 to 2014



Source: Federated States of Micronesia's Immigration and Labor Division.

A.2.3. International databases

Because of its unique relationship with the United States, the Federated States of Micronesia relies on agencies within the government for statistics, but must also use data obtained from the United States directly, as well as from the UN and other international databases. As noted, the Department of the Interior funded the recurring surveys of Micronesian migrants through the US Census Bureau.

Because they may use different sources and algorithms for determining statistical rates, various international databases may differ in their estimates. While the several figures are useful for comparisons, they also enhance the general knowledge of the migration in the Federated States of Micronesia – for emigration in general and the resulting diaspora as well. Usually, emigration can only be obtained from the receiving countries, but since almost all Federated States of Micronesia emigration is to the United States and its territories, the US Census Bureau remains the main source of information. The diaspora, as noted throughout this paper, is characterized through the surveys conducted by the United States. Additional data are made available as well, such as registries from schools in the United States.

Several United Nations and other agencies assist in looking at international migration flows, and many include the Federated States of Migration in their figures. These include the following:

1. The United Nations Statistical Division (UNSD, New York) collects data on international migration flows and migrant stocks for all the countries of the world. These data are organized in a database and can be accessed at <http://data.un.org>. In order to provide a global perspective on international migration, UNSD prepares an annual report that features estimates of migrant stocks, either by considering data produced by the countries themselves or using models.
2. The UN DESA Population Division in New York publishes an annual table titled “International Migration Wall Chart”, the most recent update being available at <http://esa.un.org/unmigration/wallchart2013.htm>. A number of reports on migration (such as *International Migration Policies*, *World Migration in Figures* and *International Migration Report*) are available from www.un.org/en/development/desa/population/.
3. The United Nations Development Programme (UNDP, New York) publishes the Human Development Report annually. The report includes a large number of statistics on various aspects of human development and is available at <http://hdr.undp.org>.
4. The International Labour Organization (ILO, Geneva) collects and analyses a large number of statistics on labour migration on all countries, which are accessible from <http://laborsta.ilo.org>.
5. The World Bank (Washington, D.C.) records data on remittances sent by emigrants to their country of origin, as well as various indicators related to development. The Global Bilateral Migration Database includes data on stocks of migrants by country of origin and destination countries of migrants and is accessed at <http://data.worldbank.org/data-catalog/global-bilateral-migration-database>.
6. The SPC also collects data on migration and publishes them both on their own site (www.spc.int/nmdi/) and through PRISM for the individual countries, including the Federated States of Micronesia (www.sboc.fm).

PART B: MIGRANT CHARACTERISTICS AND MIGRATION TRENDS AND IMPACT IN MICRONESIA

Key driving factors of migration

The Federated States of Micronesia is faced today with limited economic opportunities, which is employment in the private sector for both young adults finishing school and older adults looking for work. Since the Outer Islands and the outlying areas of the main islands are particularly deprived in this regard, many Micronesians are moving from these areas to the urban centres, hoping for better job prospects. In addition, due to step-downs in the Compact’s funding, some of the jobs that existed in the past have been cut off today. Hence, many Micronesians are seizing the opportunity provided by the Compact to move to Guam, Hawaii or the US Mainland.

B.1. Micronesia as a receiving country for immigrants

B.1.1. Immigration to Micronesia

“Immigration” is understood as *change of residence*. If singled out within the country, ideally, the change of “usual” residence should be considered. If there are no data on usual residence, “legal residence” (or “de jure residence”) data should be used as a proxy. An explanation should be provided regarding which type of residence is reported on.

“Long-term” is understood as lasting for a period of at least 12 months, and “short-term” for a period between 3 and 12 months. IOM states that clear indication should be given of the type of data source used to calculate immigration in the country, where the data-collection system lends itself to establishing the duration of immigration, and whether actual or intended duration is recorded (such as announced by the migrant or calculated on the basis of the time passed between registering in and deregistering from the system).

Although not clearly defined in the law, the Federated States of Micronesia has very few “immigrants”, that is, individuals not born in the Federated States of Micronesia but living and working in the country. Part of the reason for this situation is the difficulty in obtaining business licences and doing business in the

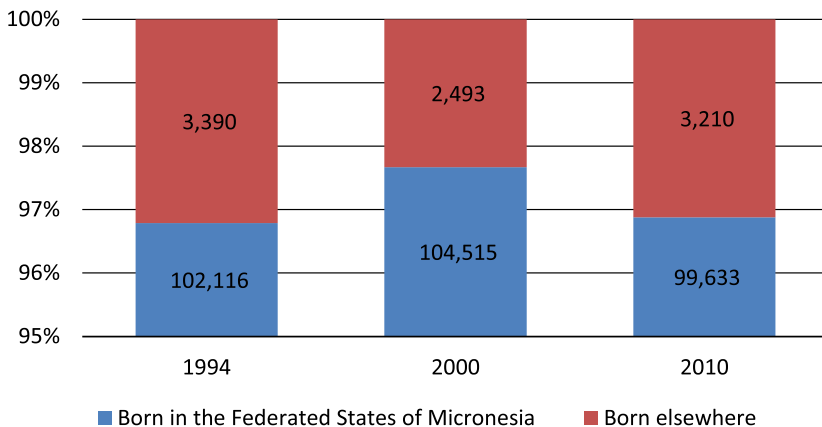
Federated States of Micronesia. Nonetheless, about 3,000 foreigners by birth were working in the Federated States of Micronesia in 2010 (Table 9 and Figure 7). About half of those born outside were living and working on Pohnpei, and about 1 in 5 were on Yap, with smaller numbers were living in Chuuk and Kosrae. The largest group of foreigners had birthplaces self-declared as Guam and CNMI (therefore, US citizens), Palau or the Marshall Islands. The next largest group was from the Philippines, followed by those claiming Hawaii or the US Mainland. US citizens made up about half of those not born in the Federated States of Micronesia.

Table 9: Foreign birthplace by State of usual residence, 2010

Foreign birthplace	Total	Yap	Chuuk	Pohnpei	Kosrae
Total	3,210	638	470	1,696	406
Guam/CNMI/Palau/Marshall Islands	869	197	234	317	121
Other Pacific Islands	159	30	8	78	43
Philippines	829	219	84	463	63
China and Taiwan Province of China	226	11	0	200	15
Other Asia	246	23	14	195	14
Hawaii	218	24	59	78	57
US Mainland	583	110	66	326	81
Other countries	80	24	5	39	12

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

Figure 7: Workers in terms of birthplace, 1994, 2000 and 2010



Source: 1994, 2000, 2010 Federated States of Micronesia Census of Population and Housing.

Citizenship showed similar results, although with much smaller numbers (Table 10). The Federated States of Micronesia citizens with children in the United States or its territories are entitled to US citizenship, although they may not claim it.

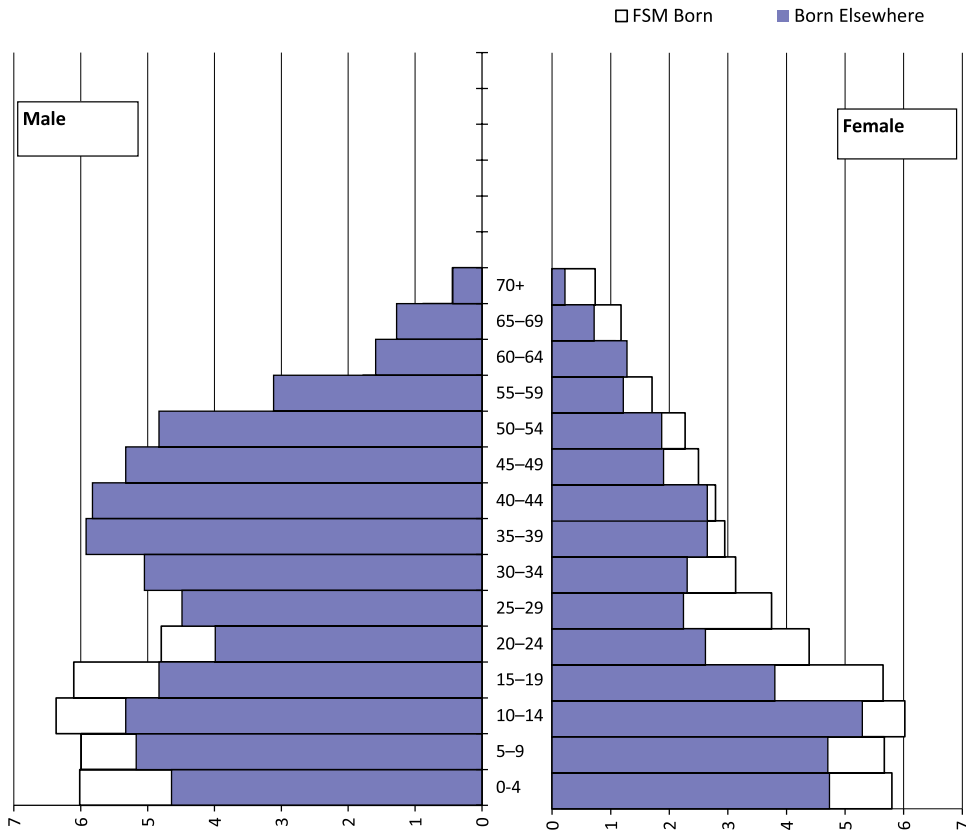
Table 10: Foreign citizenship by State of usual residence, 2010

Foreign citizenship	Total	Yap	Chuuk	Pohnpei	Kosrae
Total	2,420	557	260	1,372	231
Guam/CNMI/Palau/Marshall Islands	272	75	66	90	41
Other Pacific	131	29	2	64	36
Hawaii	32	6	12	8	6
US Mainland	600	159	76	313	52
Philippines	858	235	86	474	63
Taiwan Province of China	229	11	0	204	14
Other Asia	228	23	12	181	12
Other countries	70	19	6	38	7

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

Figure 8 shows population pyramids for the Federated States of Micronesia and its non-citizens. The pyramid for the Federated States of Micronesia citizens shows a fairly traditional pattern. However, the non-citizens are those less than 25 years old, and greater relative numbers for the males between 25 and 59 years old, but about relatively equal numbers for the females. This display shows that the immigrants are largely male and of working age, as would be expected. As a matter of fact, much of the foreign workers are in the construction sector or within the government, and mainly Asians.

Figure 8: Federated States of Micronesia and non-citizens, 2010



Source: US Census Bureau, International Database, released 17 July 2003.

Almost 97 per cent of the population enumerated in the 2010 Federated States of Micronesia Census was born in the country (Table 11). Of the 3 per cent who were born elsewhere, the largest single country sending migrants was the Philippines. The 829 Filipinos in the Federated States of Micronesia were still less than 1 per cent of the total population. The next largest group were nearby islanders (Guam and the CNMI, that is, citizens from the Marshall Islands, Palau and the United States). Other US citizens included more than 200 born in Hawaii and almost 600 born in US Mainland. It is important to note, however, that some of these persons counted as born elsewhere actually represent the children of Micronesian returnees.

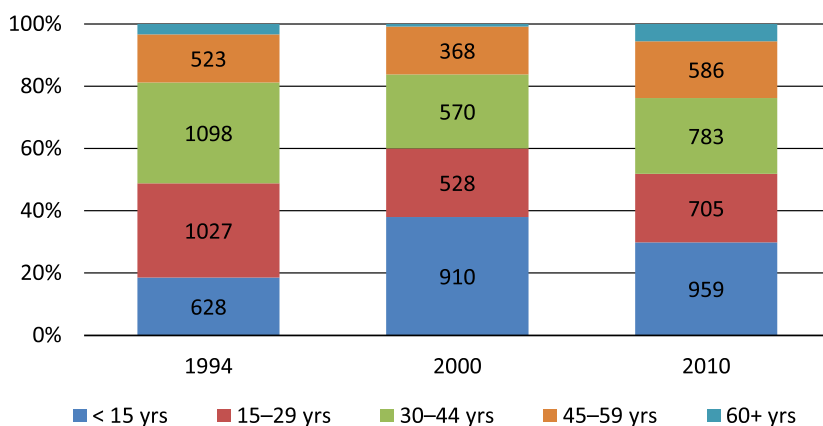
Table 11: Birthplace by sex, 2010

Birthplace	Numbers			Percentage		
	Total	Male	Female	Total	Male	Female
Total population of the Federated States of Micronesia	102,843	52,193	50,650	100.0	100.0	100.0
Born in the Federated States of Micronesia	99,633	50,209	49,424	96.9	96.2	97.6
Born elsewhere	3,210	1,984	1,226	3.1	3.8	2.4
Guam/CNMI/Palau/Marshall Islands	869	434	435	0.8	0.8	0.9
Other Pacific Islands	159	83	76	0.2	0.2	0.2
Philippines	829	563	266	0.8	1.1	0.5
China and Taiwan Province of China	226	215	11	0.2	0.4	0.0
Other Asia	246	199	47	0.2	0.4	0.1
Hawaii	218	114	104	0.2	0.2	0.2
US Mainland	583	327	256	0.6	0.6	0.5
Other	80	49	31	0.1	0.1	0.1

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

Figure 9 shows the foreign-born by age for the 1994, 2000 and 2010 censuses. In 1994, about half of the foreign-born were younger than 30 years old. In 2010, this figure had increased to about 60 per cent, but then decreased in the 2010 census. While about 2,500 foreigners aged 15 to 59 – the working population – were enumerated in the Federated States of Micronesia in 1994, decreased to about 1,500 in 2000, before increasing to about 2,000 in 2010.

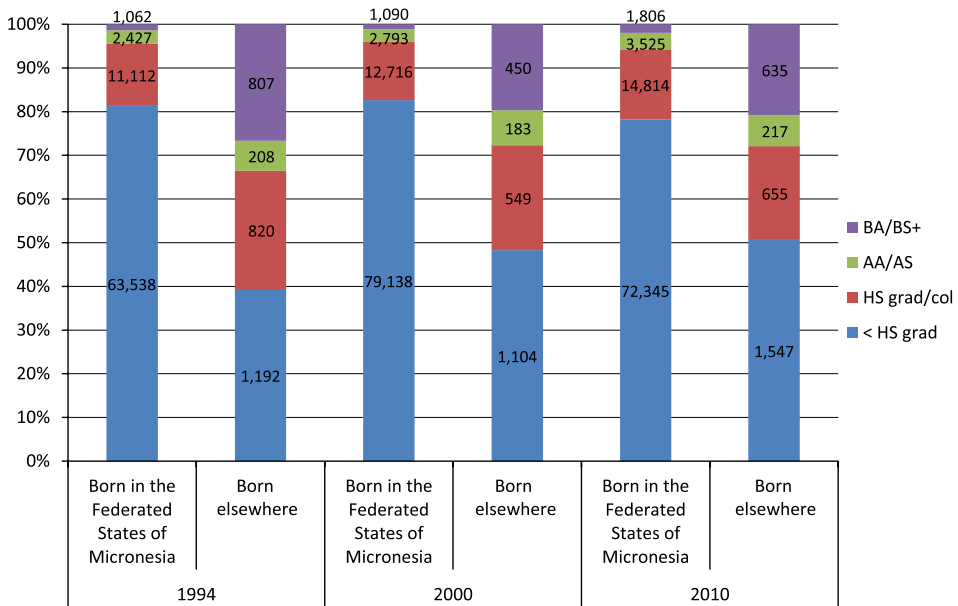
Figure 9: Foreign born by age, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federated States of Micronesia Census of Population and Housing.

Figure 10 shows the numbers and per cents of adults in the Federated States of Micronesia in 1994, 2000 and 2010 by birthplace and educational attainment. The foreign born have higher education. While about 4 in every 5 of those born in the Federated States of Micronesia had less than high school education, about half of the foreign born fall under this category.

Figure 10: Education by birthplace, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federated States of Micronesia Census of Population and Housing.

Note: HS – High school graduate
 Col – college
 AA – Associate of Arts
 AS – Associate of Science
 BA – Bachelor of Arts
 BS+ – Bachelor of Science and higher

From the 2010 Census, Table 12 shows residence in 2005 of the foreign-born living in the Federated States of Micronesia in 2010 by their citizenship. Of the more than 2,000 in the sample, more than 800 (about 1 in 3) were citizens from the Philippines. The most common residence in 2005 was “Asia”, not broken down by the census. About 600 had lived in Kolonia or elsewhere on Pohnpei in 2005. About 200 had lived in the United States or its territories, so many of these were return migrants.

Table 12: Residence in 2005 by foreign citizenship, 2010

Residence five years ago	Total	Guam/CNMI/ Palau/ Marshall Islands	Other Pacific Islands	Hawaii	US Mainland	Philippines	China/Taiwan Province of China	Other Asia	Elsewhere
Total	2,241	241	127	28	497	824	229	227	68
Yap	269	53	9	1	82	105	2	10	7
Chuuk	150	27	0	8	45	64	0	6	0
Pohnpei	591	66	29	4	167	262	11	31	21
Kosrae	113	28	19	4	21	33	0	4	4
Guam/CNMI	43	17	1	1	21	2	1	0	0
Other Pacific	123	41	59	1	3	13	1	4	1
Asia	730	2	1	0	0	339	212	168	8
United States	189	7	8	9	158	0	1	2	4
Other countries	33	0	1	0	0	6	1	2	23

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

Table 13 shows citizenship and median years of schooling by sex for work. The median years of schooling for adult citizens of the Federated States of Micronesia was 10.8 compared to 14.9 non-citizens, the difference between an average of the eleventh grade and an associate’s degree. As would be expected, those doing “paid work” had the highest educational attainment, with those doing subsistence and not working, having much lower educational attainment non-citizens of the Federated States of Micronesia had consistently higher educational attainment. For both citizenships, females in paid employment had higher educational attainment than the males. Subsistence work is defined as engaging in home production activities mainly for one’s own consumption.

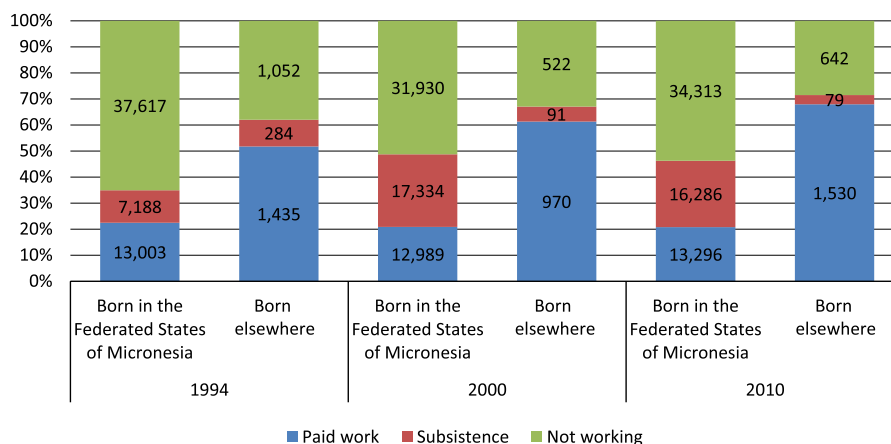
Table 13: Median years of schooling for work by citizenship and sex, 2010

Sex	Citizen of Federated States of Micronesia				Other country			
	Total	Paid	Subsistence	Not working	Total	Paid	Subsistence	Not working
Total	10.8	13.8	9.7	10.0	14.9	16.2	13.4	13.4
Males	11.0	13.6	9.7	10.3	14.5	14.9	13.6	13.1
Females	10.5	14.0	9.6	9.9	16.6	17.4	13.0	13.8

Source: 2010 Federated States of Micronesia Census of Population and Housing.

As mentioned in Part 1, there are 2,700 entry permits issued each year (see Table 7) and fewer work permits issued (Table 8). The number of those born in the Federated States of Micronesia in the “paid labour force” has remained about the same at about 13,000 over the last 20 years (Figure 11). These numbers made up about 1 in 5 of all adults born in the Federated States of Micronesia. On the other hand, about half of the foreign born in 1994 were in the paid labour force, but this value increased to about 6 in 10 in 2000 and as much as 7 in 10 in 2010. In 2010, the foreign-born made up only about 10 per cent of the paid labour force, but this was still much greater than their total numbers would be expected if they were continuous residents.

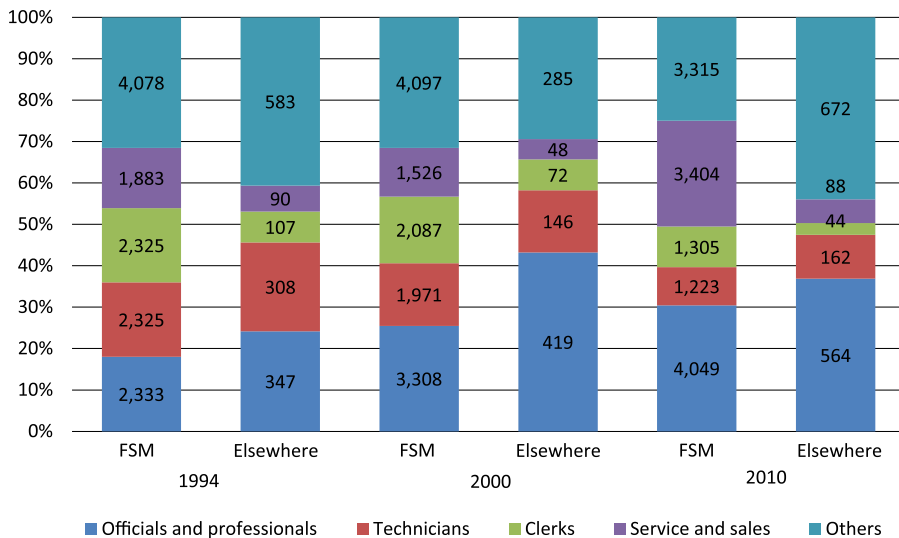
Figure 11: Labour force by the Federated States of Micronesia and foreign birthplace, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federated States of Micronesia Census of Population and Housing.

Figure 12 shows the change in numbers and percentages in the Federated States of Micronesia and foreign-born populations in selected occupations in the 1994, 2000 and 2010 censuses. The numbers of the officials and professionals born in the Federated States of Micronesia increased from 2,300 in 1994 to 3,300 in 2000, and 4,000 in 2010, ending up being about 30 per cent of all occupations in 2010. The next largest group of those born in the Federated States of Micronesia in 2010 were from service and sales, almost doubling during the 16 years. The largest non-“other” occupations of the foreign born was also officials and professionals, but the numbers were smaller, of course, since the Federated States of Micronesia has so few foreign-born workers.

Figure 12: Occupation by birthplace, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federated States of Micronesia Census of Population and Housing.

B.1.2. Immigration for employment

According to Table 14, about 15,000 adults were employed either in the public or private sectors in the Federated States of Micronesia in 2010 and about 1,400 were born in other countries, amounting to 10 per cent of the active population. The foreign-born made up 15 per cent of all the private sector workers and more than 4 per cent of the public sector workers.

Table 14: Occupation by citizenship and sector, 2010

Occupation	Total			Other country			Per cent		
	Total	Private	Public	Total	Private	Public	Total	Private	Public
Total	14,713	7,192	7,521	1,388	1,080	308	9.4	15.0	4.1
Managers	1,196	364	832	117	82	35	9.8	22.5	4.2
Professionals	3,419	547	2,872	374	186	188	10.9	34.0	6.5
Technicians and associate professors	1,417	475	942	141	103	38	10.0	21.7	4.0
Clerical support workers	1,377	701	676	33	22	11	2.4	3.1	1.6
Service and sales workers	3,440	2,165	1,275	71	57	14	2.1	2.6	1.1
Skilled agriculture forestry and fishery	598	440	158	252	247	5	42.1	56.1	3.2

Craft and related trades workers	1,080	930	150	255	249	6	23.6	26.8	4.0
Plant and machine operators	713	497	216	37	34	3	5.2	6.8	1.4
Elementary occupations	1,469	1,072	397	107	100	7	7.3	9.3	1.8
Armed forces occupations	4	1	3	1	0	1	25.0	0.0	33.3

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished table.

Most of the foreign-born workers were male in 2010, which is about three male workers for every one female worker. The largest numbers of private-sector males were working in skilled agriculture, forestry and fishing, as well as crafts and trades, while the largest numbers of private sector females were working as professionals (see Table 15).

Table 15: Occupation by sex and sector, foreign citizenship, 2010

Occupation	Total			Male			Female		
	Total	Private	Public	Total	Private	Public	Total	Private	Public
Total	1,388	1,080	308	1,067	892	175	321	188	133
Managers	117	82	35	82	57	25	35	25	10
Professionals	374	186	188	195	94	101	179	92	87
Technicians and associate professors	141	103	38	110	88	22	31	15	16
Clerical support workers	33	22	11	14	13	1	19	9	10
Service and sales workers	71	57	14	36	29	7	35	28	7
Skilled agriculture forestry and fishery	252	247	5	249	246	3	3	1	2
Craft and related trades workers	255	249	6	242	236	6	13	13	0
Plant and machine operators	37	34	3	36	33	3	1	1	0
Elementary occupations	107	100	7	102	96	6	5	4	1
Armed forces	1	0	1	1	0	1	0	0	0

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished table.

The largest individual foreign citizenship workers were from the Philippines, being almost half of all workers mainly in the craft and trade sector, as well as professionals. About half of the US citizen workers were professionals and Chinese and other Asian workers in the agricultural, forestry and fishing sectors (see Table 16).

Table 16: Occupation by foreign citizenship, 2010

Occupation	Total	Guam/ CNMI/ Palau/ Marshall Islands	Other Pacific Islands	Hawaii	US Mainland	Philippines	China/Taiwan Province of China	Other Asia	Elsewhere
Total	1,469	65	56	4	193	680	225	203	43
Managers	133	5	8	2	29	47	9	21	12
Professionals	383	11	24	1	101	193	13	22	18
Technicians and associate professors	143	7	8	0	30	46	37	11	4
Clerical support workers	33	3	4	0	7	14	2	1	2
Service and sales workers	77	12	1	0	7	49	4	2	2
Skilled agriculture forestry and fishery workers	279	14	5	0	7	10	112	129	2
Craft and related trades workers	270	6	3	0	4	248	4	3	2
Plant and machine operators	38	3	0	0	2	16	15	2	0
Elementary occupations	112	4	2	1	6	57	29	12	1
Armed forces occupations	1	0	1	0	0	0	0	0	0

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

Data collected provide information on number of foreign health workers. Out of 243 health workers (2010 Census), 219 (90%) were citizens of the Federated States of Micronesia, and only 24 foreigners (Table 17).

Table 17: Persons in health occupations by urban/rural residence in 2005 and 2010 and citizenship, 2010

Citizenship	Total				Urban				Rural			
	Total	Urban	Rural	Elsewhere	Total	Urban	Rural	Elsewhere	Total	Urban	Rural	Elsewhere
Total	243	98	125	20	103	82	6	15	140	16	119	5
Citizens of the Federated States of Micronesia	219	92	117	10	92	79	5	8	127	13	112	2
Non-citizens	24	6	8	10	11	3	1	7	13	3	7	3

Source: 2010 Federated States of Micronesia Census of Population and Housing.

Non-citizens of the Federated States of Micronesia also participate in the teaching profession in larger numbers than their part of the population would expect. Of the 107 instructors at all COM campuses during the 2012–2013 school year, 57 (or 53%) were non-citizens (Table 18). Except in the 2010–2011 school year, more than half the instructors in each year were foreigners.

Table 18: Foreign instructors at all COM campuses, 2003–2013

Citizenship	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11	2011–12	2012–13
Total	83	97	95	111	111	103	98	103	97	107
Citizens of Federated States of Micronesia	37	44	39	43	52	49	45	59	42	50
Foreign	46	53	56	60	59	54	53	44	55	57
Per cent	55.4	54.6	58.9	54.1	53.2	52.4	54.1	42.7	56.7	53.3

Source: Institutional Research and Planning Office; Human Resources Office, COM-FSM National Campus.

Table 19 shows the numbers of foreign-born citizens reported in the 2010 Census by their country of citizenship and industry. As before, the largest numbers were Philippines, Chinese and other Asian citizens. The Filipinos were most likely to be in construction and wholesale trade, while the Chinese and other Asians were fishing and doing agriculture.

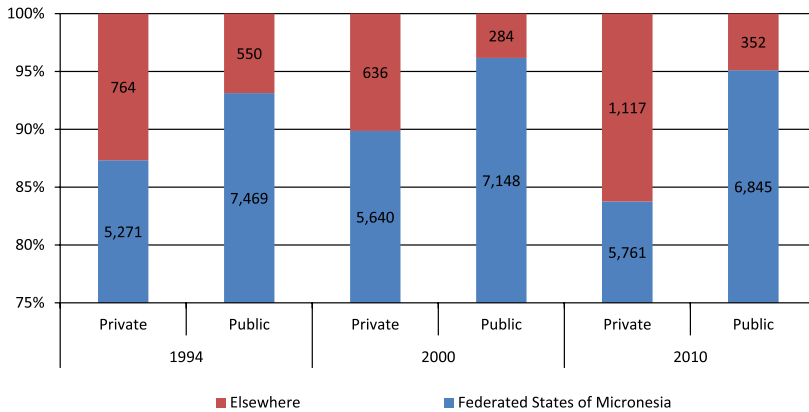
Table 19: Industry by foreign citizenship, 2010

Industry	Total	Guam/CNMI/ Palau/Marshall Islands	Other Pacific Islands	Hawaii	US Mainland	Philippines	China/Taiwan Province of China	Other Asia	Elsewhere
General									
Total	1,469	65	56	4	193	680	225	203	43
Agriculture forestry and fishing	312	5	3	0	4	33	142	122	3
Mining and quarrying	3	1	0	0	0	2	0	0	0
Manufacturing	47	0	0	0	2	35	8	2	0
Electricity gas steam	9	0	4	0	0	4	0	0	1
Water supply; sewage waste management	4	1	0	1	0	1	0	1	0
Construction	322	5	1	0	3	237	52	24	0
Wholesale and retail trade	154	10	7	2	5	118	5	6	1
Transportation and storage	20	2	0	0	5	11	0	1	1
Accommodation and food service activities	80	4	3	0	9	46	8	6	4
Information and communication	13	2	3	0	2	5	0	1	0
Financial and insurance activities	13	1	1	0	5	6	0	0	0
Real estate activities	4	0	0	0	0	4	0	0	0
Professional scientific and technical activities	10	1	1	1	5	2	0	0	0
Administrative and support services	16	5	0	0	1	3	0	5	2
Public administration and defence	104	3	9	0	39	36	5	4	8
Education	184	9	13	0	63	69	0	16	14
Human health and social work active	56	5	3	0	11	30	1	6	0
Arts entertainment and recreation	7	0	0	0	2	1	0	1	3
Other services activities	60	2	2	0	23	24	2	3	4
Activities of households as employees	31	9	3	0	3	10	2	3	1
Activities of extraterritorial org. and bodies	20	0	3	0	11	3	0	2	1

Source: 2010 Federated States of Micronesia Census of Population and Housing unpublished tables.

The percentage of foreign-born private sector workers decreased from about 13 per cent in 1994 to 10 per cent in 2000, but increased to about 16 per cent in 2010 (Figure 13). In the public sector, however, the percentages for those born in the Federated States of Micronesia were higher, going from about 93 per cent in 1994 to 96 per cent in 2000 and 95 per cent in 2010.

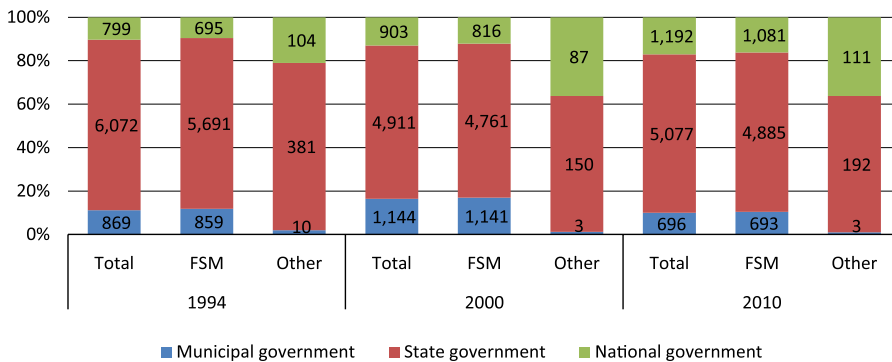
Figure 13: Birthplace by sector, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federates States of Micronesia Census of Population and Housing.

Figure 14 divides government workers into those working for the national government, those working for State governments and those working for municipal governments in the 1994, 2000 and 2010 censuses. Data shows that State governments have the most workers. Almost none of the foreign-born worked for municipal governments, but the percentage of foreign-born working in the national government increased from about 20 per cent in 1994 to almost 40 per cent in 2010; still, their numbers were small.

Figure 14: Government employment by birthplace, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federates States of Micronesia Census of Population and Housing.

Table 20 shows the reported average wages for various types of institutions from the fiscal years (FY) 2004 to 2013. The table shows that the private sector, where most of the foreign-born work, had much lower wages than those from the public sector. While these wages were comparable to municipal government wages, they were less than half of the wages paid to State and national government workers. So while these private sector wages probably were higher than they could achieve in their home countries, and were high by world standards, their purchasing power was only about half of what the government sector workers had.

Table 20: Average nominal wage rates by institution, FY 2004–FY 2013

[Average annual wages in US dollars (USD)]

Sector	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Total	6,637	6,802	6,931	6,984	7,253	7,544	7,747	7,779	8,076	8,202
Private sector	3,910	3,953	4,998	4,001	4,256	4,405	4,606	4,850	5,072	5,140
Public enterprise	10,783	11,249	12,045	12,294	12,698	12,453	12,746	13,223	13,079	13,215
Financial institutions	13,720	13,129	14,927	17,554	14,819	14,770	15,287	14,964	15,198	15,540
National government	12,578	14,632	14,785	14,471	13,848	14,987	15,783	15,928	15,583	16,878
State government	8,272	8,135	8,011	8,149	8,329	8,829	9,152	9,032	9,341	9,279
Municipalities	3,230	4,787	4,942	3,713	4,584	4,614	4,638	4,728	4,897	4,933
Government agencies	9,692	9,686	11,382	11,574	12,007	12,574	12,606	11,902	12,781	13,225
Non-profits	4,544	5,110	5,077	5,233	5,568	5,796	6,043	6,267	6,515	6,712
Foreign embassies	9,082	10,480	11,651	12,332	12,587	13,346	13,915	11,900	11,821	1,651

Sources: Federated States of Micronesia Social Security Administration (n.d.); Government payrolls; Statistics estimates.

Table 21 shows the Federated States of Micronesia's records of foreign-born workers by country and sector from 1998 to 2006. As above, the majority of foreign workers were in the private sector – more than two thirds of the total. However, the reported figures show larger numbers in the public or government sector than the censuses have been showing. Some of the difference can be attributed to the fact that censuses are at one point in time, whereas registration could come at any time of the year, so people who leave before the census or arrive after it will add to the count.

Table 21: Foreign born by sector, 1998 to 2006

Nationality	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total	1,722	2,034	2,232	2,172	2,148	2,033	1,762	1,338	1,283
Japan	65	61	52	33	27	25	30	37	31
Australia	20	29	27	30	30	19	17	14	13
Philippines	737	921	1,013	937	949	898	845	907	899
United States	321	355	329	302	301	206	176	174	169
China	399	483	636	699	675	670	512	17	23
Others	180	185	175	171	166	215	182	189	148
GOVERNMENT									
Total	469	484	489	471	471	397	352	319	167
Japan	2	4	3	3	2	3	5	3	0
Australia	14	22	20	21	20	11	10	8	7
Philippines	114	113	127	136	138	132	120	100	67
United States	237	246	247	220	222	125	112	104	51
China	0	1	1	1	3	3	3	2	1
Others	102	98	91	90	86	123	102	102	41
PRIVATE									
Total	1,253	1,550	1,743	1,701	1,677	1,636	1,410	1,019	1,116
Japan	63	57	49	30	25	22	25	34	31
Australia	6	7	7	9	10	8	7	6	6
Philippines	623	808	886	801	811	766	725	807	832
United States	84	109	82	82	79	81	64	70	118
China	399	482	635	698	672	667	509	15	22
Others	78	87	84	81	80	92	80	87	107

Source: Federal States of Micronesia Social Security Administration (n.d.).

B.1.3. Immigration for study

As shown in Table 22, the number of foreign students in the Federated States of Micronesia remains small, and is not likely to grow, given the limited number of quality education opportunities and levels in Micronesia. Nonetheless, more students are able to leave COM for Hawaii and US Mainland schools, and so the Federated States of Micronesia is making real efforts to improve educational attainment. These efforts may make the Federated States of Micronesia a more likely destination for foreign students. Also, the COM is preparing its students to make the journey outward at the same time it is training future teachers and health workers.

Table 22: Foreign student permits by characteristics, 2006 to 2014

Total students: 45					
Males	28	Females	17	Chuuk	11
Born before 1990	19	Born in Asia	27	Kosrae	10
Born 1990 to 1994	12	Born in the Pacific	17	Pohnpei	19
Born 1995 or later	14	Born elsewhere	1	Yap	5
Calendar year					
2006	5	2009	1	2012	8
2007	6	2010	3	2013	4
2008	8	2011	4	2014	6

Source: Federated States of Micronesia Immigration.

B.2. Emigration of Micronesians: A particular migration pattern through the Compact of Free Association

B.2.1 General emigration trends since the 1980s

In most countries, data on emigration, due to the very character of this migration type, is more difficult to collect than immigrant data. In the majority of cases, estimation techniques and data from destination countries have to be used to produce estimates of stocks of nationals residing abroad. As mentioned in Part A, fortunately for the Federated States of Micronesia, the US Department of the Interior's OIA funded a series of emigrant surveys starting in 1992.

The Federated States of Micronesia saw little emigration until the 1980s. About 410 Micronesians were living on Guam and 552 in the CNMI according to the US Decennial censuses. Many of the Micronesians in the CNMI were part of the Trust Territory Administration in Saipan. As the trusteeship wound down, many returned to the Federated States of Micronesia; others married on Saipan, or remained with spouses and children they had brought there if they moved into the new Commonwealth administration. In addition, several Micronesians who migrated before 1980 were students who had obtained Basic Educational Opportunity Grant or Pell Grant in the late 1970s. With the entry in force of the COFA, the numbers of Micronesian emigrants started to grow.

Table 23: Estimates of Micronesian migrants, 1995 to 2012

Year	Total	Guam	CNMI	Hawaii	US Mainland
1995	12,000	c5,000	1,961	c2,000	c3,000
1997	16,000	5,789	2,199	3,786	c4,200
2000	22,000	8,573	c2,500	c4,400	c6,500
2003	30,000	9,098	3,097	5,091	c12,700
2008	42,000	16,358	1,560	8,320	c15,800
2012	49,840	13,558	4,286	7,948	24,048

Source: Hezel (2013).

Note: c – circa

The total number of emigrants increased from about 12,000 in 1995 to 22,000 in 2000, 30,000 in 2003, 42,000 in 2008 and 50,000 in 2013 (Table 23). In general, the numbers also increased throughout the period in each of the receiving areas.

Table 24 shows the sex distribution of the emigrant population in 2012 by receiving area. All four receiving areas had more female than male migrants.

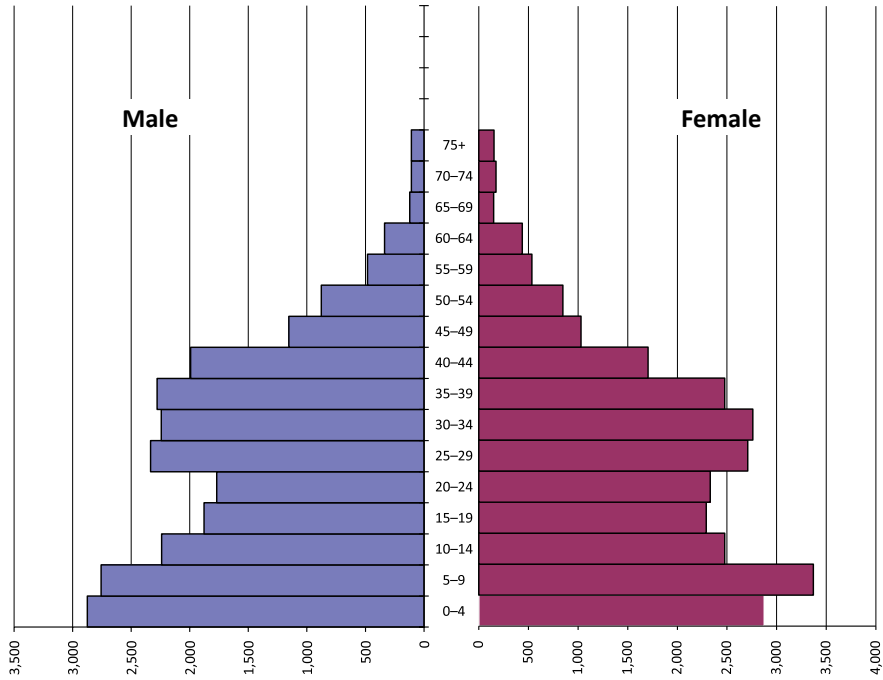
Table 24: Micronesian migrants by sex and place, 2012

Place	Total	Male	Female
Total	49,870	23,556	26,315
Guam	13,588	6,540	7,048
CNMI	4,286	1,988	2,298
Hawaii	7,948	3,957	3,991
US Mainland	24,048	11,071	12,978

Source: 2012 Surveys of Micronesian migrants.

The population pyramid for the emigrants in 2012, while not being a completely traditional pyramid, shows a generally settled emigrant community (Figure 15). The pyramid shows a bulge in the adult ages, which had the highest proportions doing paid work. Their children are represented in the bottom rungs. In between are the older children of migrants and more recent young migrants. As would be expected, very few older migrants appear, although more and more of the migrants are bringing out elderly parents for health care and more commodious living arrangements.

Figure 15: Migrants population in the Federated States of Micronesia by age and sex, 2012



Source: 2012 Surveys of Micronesian migrants.

Table 25 shows the age and sex distributions for each of the receiving areas. The distributions are very similar to the total. The median ages for the total population were 26.5 years for males and 27.1 for females. The median ages were lowest for the CNMI, at about 19 years, partly because the migration to the CNMI was earliest during the TTPI Administration. But Guam’s male median was about the same, although the female median was two years higher. The oldest migrants were living in Hawaii and US Mainland, partly because many of these migrants were forming new beachheads and had not yet married or brought spouse or had children.

Table 25: Age and sex by emigrant location of migrants, 2012

Age group	Total		Hawaii		Guam		CNMI		US Mainland	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Total	23,556	26,315	3,957	3,991	6,540	7,048	1,988	2,298	11,071	12,978
0–4 years	2,875	2,875	384	334	976	801	225	267	1,290	1,473
5–9 years	2,756	3,370	426	402	959	893	218	317	1,153	1,758
10–14 years	2,240	2,477	359	493	860	886	316	306	705	792
15–19 years	1,878	2,291	364	297	565	741	264	302	685	951
20–24 years	1,770	2,331	350	302	422	699	108	155	890	1,175
25–29 years	2,335	2,709	312	392	598	599	98	93	1,327	1,625
30–34 years	2,243	2,761	348	368	472	621	90	162	1,333	1,610
35–39 years	2,279	2,477	428	342	420	525	136	136	1,295	1,474
40–44 years	1,992	1,704	286	355	450	392	128	177	1,128	780
45–49 years	1,153	1,030	226	216	293	310	133	139	501	365
50–54 years	876	847	171	133	212	242	111	119	382	353
55–59 years	482	534	75	70	148	160	69	57	190	247
60–64 years	336	438	90	125	108	82	51	46	87	185
65–69 years	122	149	24	42	40	61	21	9	37	37
70–74 years	108	172	38	57	0	20	5	8	65	87
75 years and over	107	152	75	63	17	16	15	6	0	67
Median	26.5	27.1	26.5	27.1	19.2	21.5	19.4	19.3	28.1	26.0

Source: 2012 Surveys of Micronesian migrants.

Figure 16 shows population pyramids based on the figures in Table 34 for the four main receiving areas of migrants of the Federated States of Micronesia based on the 2012 survey figures. The effects of the Micronesian emigration are clearly seen in the Hawaii, CNMI and US Mainland figures with bulges in the ages most likely to leave. The CNMI results are particularly interesting since migration to that area has been longest, so the pyramid is expected to look most like a traditional pyramid. However, after the decline of the garment factories and construction in the CNMI, the terrible economy that followed actually required workers in the most productive ages to leave. Guam’s pyramid looks most like a traditional pyramid, although that has only happened recently. In the early years after the Compact went into effect, migration of young men predominated, but they then brought their siblings, their parents and other relatives (Rubinstein, 1993; Rubinstein and Levin, 1992). And then they began to have families, and the traditional pyramid resulted. Migration to Hawaii and the US Mainland came later, and, as on Guam, the first migrants were young, unmarried people who could afford to go out into the world to seek their fortunes. The pyramid for Hawaii began to look like Guam’s, but the US Mainland migration has been too recent to show these changes as families form.

Figure 16a: Age and sex of migrants by location, CNMI, 2012

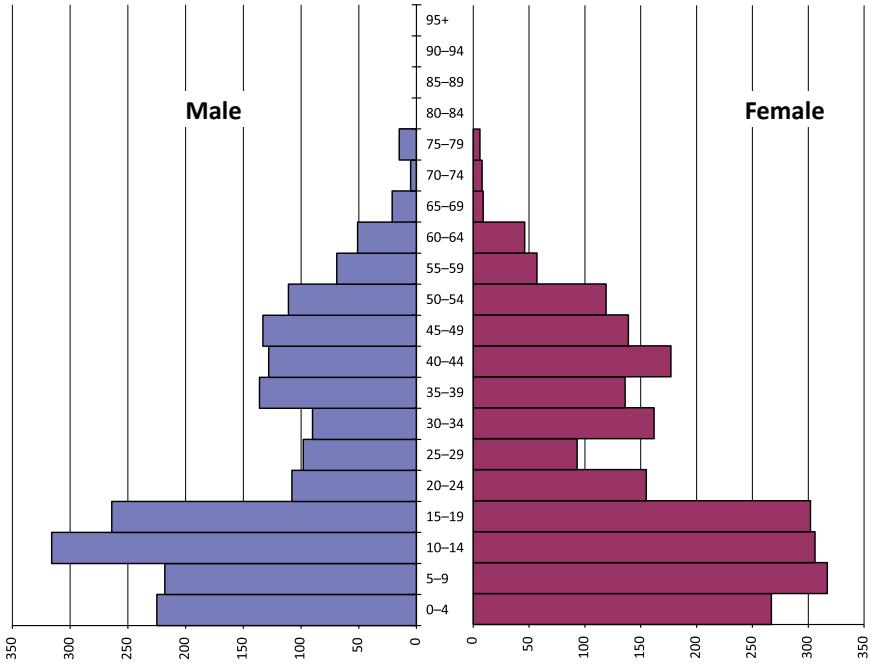


Figure 16b: Age and sex of migrants by location, Guam, 2012

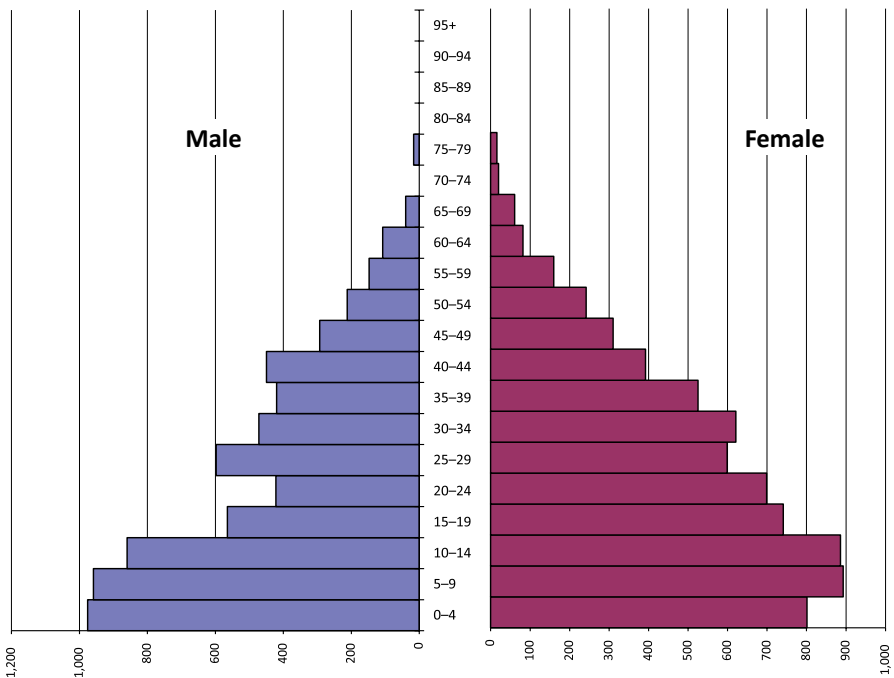


Figure 16c: Age and sex of migrants by location, Hawaii, 2012

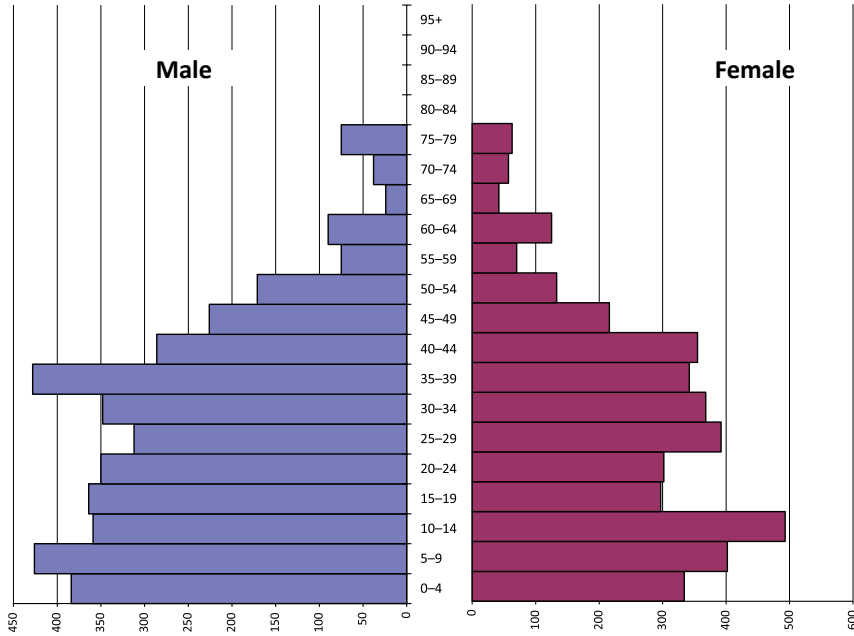
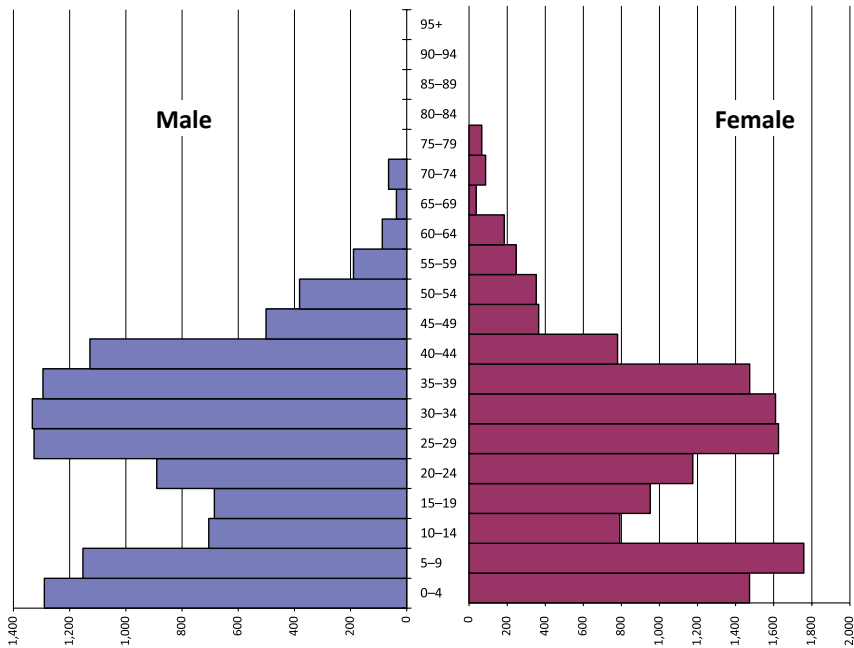


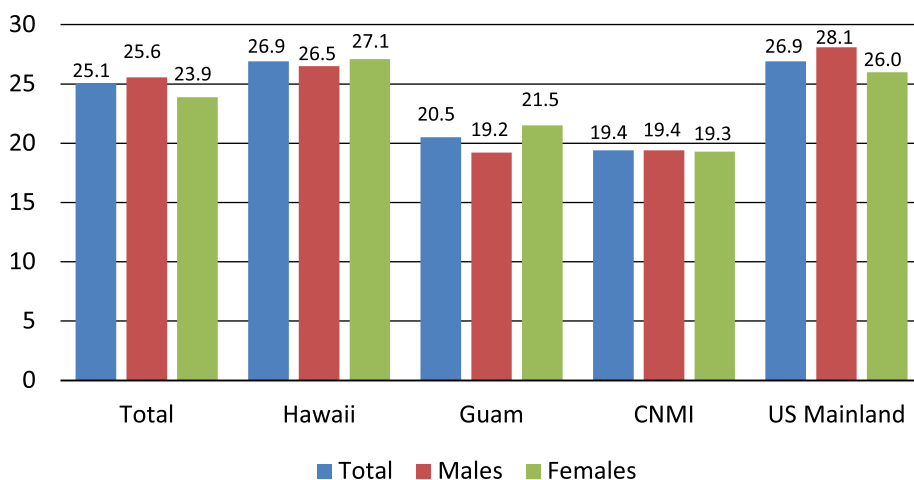
Figure 16d: Age and sex of migrants by location, US Mainland, 2012



Source: 2012 Surveys of Micronesian migrants.

The median age – the age with half being older and half being younger – of all the migrants in the samples was about 27 years, with females slightly older than males (Figure 17). The median age of the migrants was significantly higher than that for those remaining in the Federated States of Micronesia, as would be expected. Young children are less likely to migrate. But while the median age for the migrants living in Hawaii and the US Mainland was about the same for the total of all migrants, the median for Guam and CNMI was much lower. These lower numbers reflected both the closeness to Micronesia, and thus the likelihood that the migrants would take their young children with them (being cheaper for airfare and easier to get back and forth), and the fact that some of the migrants were having children in Guam and CNMI, and thus lowering the median.

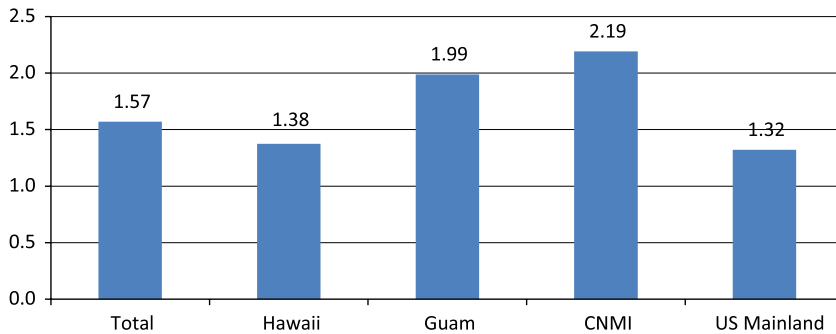
Figure 17: Median age of migrants by sex and place, 2012



Source: 2012 Surveys of Micronesian migrants.

From the survey, it appears that the birth rate is lower than in Micronesia. This result is partly because many went into the workforce. Others went to school, and so postponed the beginning of childbearing, and this also reduced the total fertility, as well as they started having children later, which is past peak fertility. Also, many of the females in the samples were young since migration remained relatively recent. Migrant females were reported to have about 1.6 children, on average (Figure 18). The figure was somewhat lower for females living in Hawaii and the US Mainland, and was somewhat higher – about two children per female on Guam and about 2.2 in CNMI.

Figure 18: Children per woman in migrants, by place, 2012

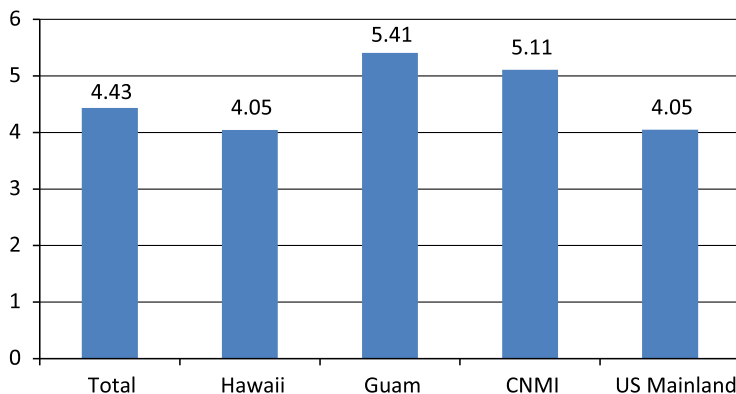


Source: 2012 Surveys of Micronesian migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

Partly because of the larger number of children per female in Guam and CNMI, migrants also had larger households. While the average household size among the migrants was 4.4 people, the average for Guam was 5.4, one more person per house than the average (Figure 19). The household size in CNMI was 5.1, but was only 4.0 for Hawaii and the US Mainland. Since landlords were much stricter in Hawaii and the US Mainland, some of the difference could be explained by various laws. But the household sizes, nonetheless, were much smaller than in the Federated States of Micronesia.

Figure 19: Household size by place of migrants, 2012



Source: 2012 Surveys of Micronesian migrants.

Citizenship

About 2 out of every 3 migrants in 2012 remained citizens of the Federated States of Micronesia, while about 3 out of 10 had become US citizens (Table 26 and Figure 20). Hawaii showed the smallest numbers of US citizens, while the CNMI had the largest percentage since anyone born there became a US citizen automatically; while this was true of the other areas as well, the migration to CNMI started much earlier since the TTPI administration was there, and many married Saipanese, had children and remained there after the dissolution of the TTPI. The US Mainland had the highest percentage of citizens of the Federated States of Micronesia, mostly because the migration there was the most recent; but Hawaii and Guam also had large percentages, also reflecting the more recent migration.

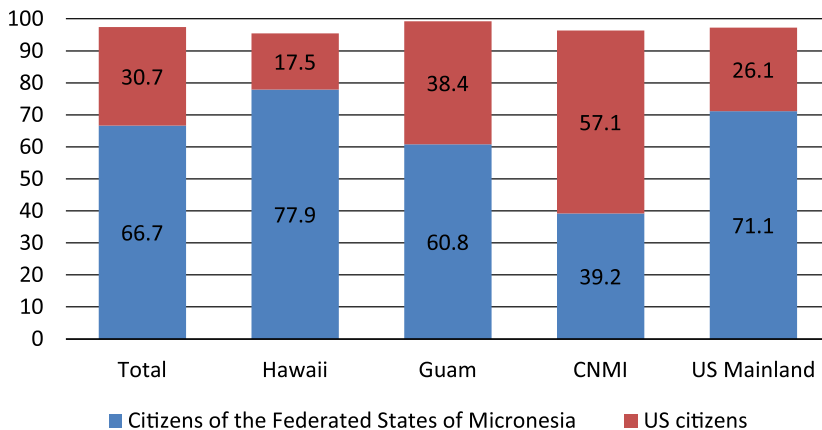
Table 26: Citizenship of migrants by location, 2012

Citizenship	Total	Hawaii	Guam	CNMI	Mainland
Total	49,870	7,948	13,588	4,286	24,048
Citizen of the Federated States of Micronesia	33,242	6,193	8,258	1,681	17,110
Per cent	66.7	77.9	60.8	39.2	71.1
Non-citizen of the Federated States of Micronesia	16,629	1,755	5,330	2,605	6,939
US citizen	15,333	1,393	5,223	2,448	6,269
Per cent	30.7	17.5	38.4	57.1	26.1
Other citizenship	1,296	362	107	157	670

Source: 2012 Surveys of Micronesians migrants.

Note: Some people reported dual citizenship, but included as citizenship to the Federated States of Micronesia only here.

Figure 20: Citizenship of migrants by place, 2012



Source: 2012 Surveys of Micronesians migrants.

About 70 per cent of all the migrants in the surveys were born in the Federated States of Micronesia. Hawaii and the US Mainland have actually the highest percentages of those born in the Federated States of Micronesia, followed by Guam. As noted, many of the “Micronesian migrants” to the CNMI were actually born there.

Table 27: Birthplace of migrants by location, 2012

Birthplace	Total	Hawaii	Guam	CNMI	US Mainland
Total	49,870	7,948	13,588	4,286	24,048
Federated States of Micronesia	32,571	5,949	7,960	1,859	16,803
Per cent	65.3	74.8	58.6	43.4	69.9
CNMI	3,043	63	374	2,267	339
Guam	5,850	260	4,997	36	557
Hawaii	1,775	1,368	22	9	376
Other Pacific	1,541	1,256	80	26	179
US Mainland	6,122	212	151	38	5,721
Elsewhere	156	12	13	59	72

Source: 2012 Surveys of Micronesian migrants.

The period of most intense migration was from 2005 to 2009, but the most recent period (2010 to 2012) was only two and a half years compared to the five years for the adjacent period. The flow has been continuous, and the results indicate that it will continue at a pace of more than 1,000 per year.

Table 28: Year the migrants left the Federated States of Micronesia by location, 2012

Year left the Federated States of Micronesia	Total	Hawaii	Guam	CNMI	US Mainland
Born in the Federated States of Micronesia	32,229	5,916	7,922	1,843	16,548
2010–2012	3,614	542	952	100	2,020
2005–2009	9,468	1,923	2,060	205	5,280
2000–2004	6,252	1,439	1,482	272	3,059
1995–1999	5,369	751	1,443	239	2,936
1988–1994	4,884	810	1,451	555	2,068
1987 or before	2,641	450	534	472	1,185

Source: 2012 Surveys of Micronesian migrants.

The 2012 migrant survey asked the reason why the emigrant left the Federated States of Micronesia for the receiving area. As Table 29 and Figure 21 show, in the largest group, about one in every three of the migrants who moved went for employment reasons. The next largest groups were those who went for “family reasons”, which is because the small number of the “relatives of employed

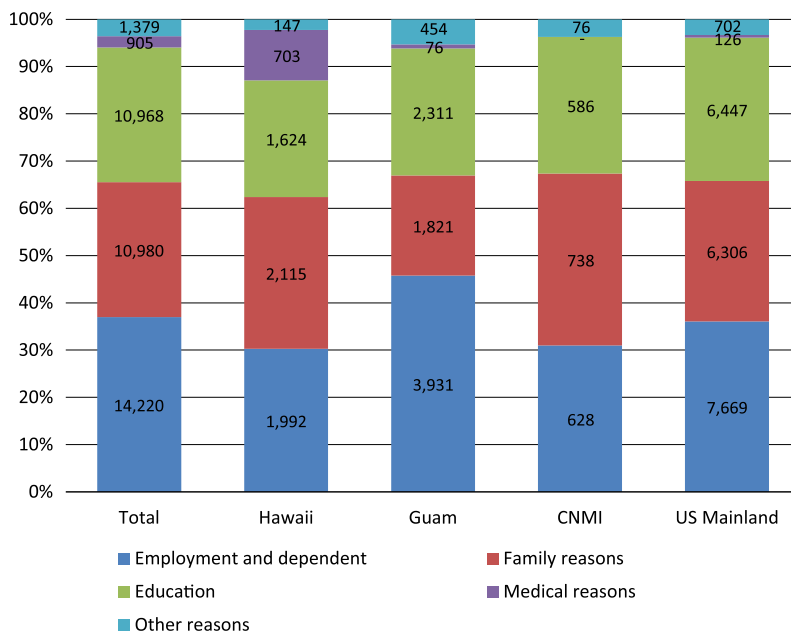
persons” was probably made up of relatives of employed persons for the most part. About one in every three of those who moved came to the receiving area as students, although they may not have remained in that category. The largest number of these “students” resided on the US Mainland in 2012.

Table 29: Reason for migrant’s migration by location, 2012

Reason for migration	Total	Hawaii	Guam	CNMI	US Mainland
Total	49,873	7,949	13,590	4,286	24,048
Employment	12,421	1,706	3,235	552	6,928
Relative of employed person	1,799	286	696	76	741
Family reasons	10,980	2,115	1,821	738	6,306
Education	10,968	1,624	2,311	586	6,447
Medical reasons	905	703	76	0	126
Visiting or vacation	736	66	205	42	423
Other	643	81	249	34	279
Did not migrate	11,421	1,368	4,997	2,258	2,798

Source: 2012 Surveys of Micronesians migrants.

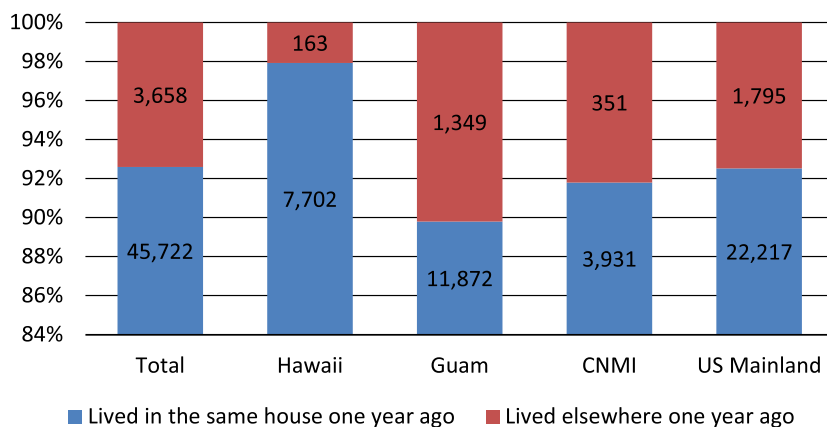
Figure 21: Reasons for migrant’s migration by location, 2012



Source: 2012 Surveys of Micronesians migrants.

The surveys also asked a question on residency one year before the survey (2011) to obtain information on very short-term migration. Children less than one year old were excluded, as were those who did not answer. So about 92 per cent of the respondents had not moved in the year before the census, and about 7 per cent had moved. Those on Guam were most likely to have moved, either from the Federated States of Micronesia or from one place to another on Guam. Those in Hawaii were least likely to have moved in the previous year, perhaps reflecting a downturn in the actual migration flow, but also because housing is so expensive in Hawaii that once residents find affordable housing, they tend to stay there (see Figure 22).

Figure 22: Migrants' residence in 2011 by location, 2012



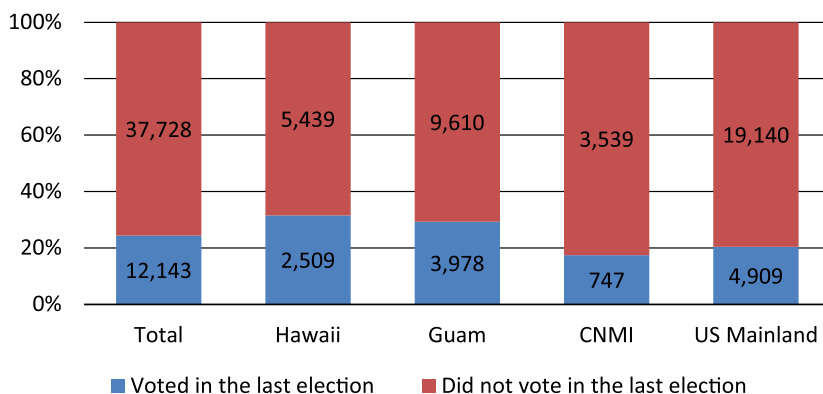
Source: 2012 Surveys of Micronesians migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

Voting

Figure 23 shows the voting percentage in the last election in the Federated States of Micronesia. The question was included as one measure of identifying the continuing contact between the migrant population and their home areas. About 20 per cent of the eligible adults who could have voted reported having actually voted in the previous election. The migrants in Guam and Hawaii were most likely to have voted in the previous election; those in CNMI and US Mainland were less likely to have voted. The CNMI case is probably due to the long-term residence of the migrants; the US Mainland case might be because of the distance, and therefore the communications problems, and that many migrants who go that far away from the home area basically abandon it altogether and do not look back.

Figure 23: Voting of migrants in the last election in the Federated States of Micronesia, 2012



Source: 2012 Surveys of Micronesia migrants.

Note: Population Estimates from 2003 Survey and interim births and migrants.

Continued attachment to the Federated States of Micronesia – “Micronesian-ness”

The 2012 Micronesia migrants’ surveys collected many variables not usually included in censuses and surveys. These variables can help in assessing the relative degree of attachment the migrants have to the homes they left. Summing these variables, with some weighting, provides an index for comparison between households and receiving areas (Guam, Hawaii and the US Mainland). The following variables and weights were used:

- Micronesia gatherings: Daily (score 4), Weekly (3), Monthly (2), Less frequently (1), Never (0)
- Displaying a flag of the Federated States of Micronesia (1)
- Having handicrafts displayed (1)
- Having land holdings in the Federated States of Micronesia (2)
- Wearing island clothes (1)
- Any overseas travel in the last year (1)
- Wedding contribution of USD 500 or more (1)
- Funeral contribution of USD 500 or more (1)
- Family get-together of USD 500 or more (1)
- Church donations of USD 500 or more (1)
- Remittances sent overseas (1)
- Remittances as gifts overseas (1)
- Remittances to other US areas (1)
- Local remittances (1)

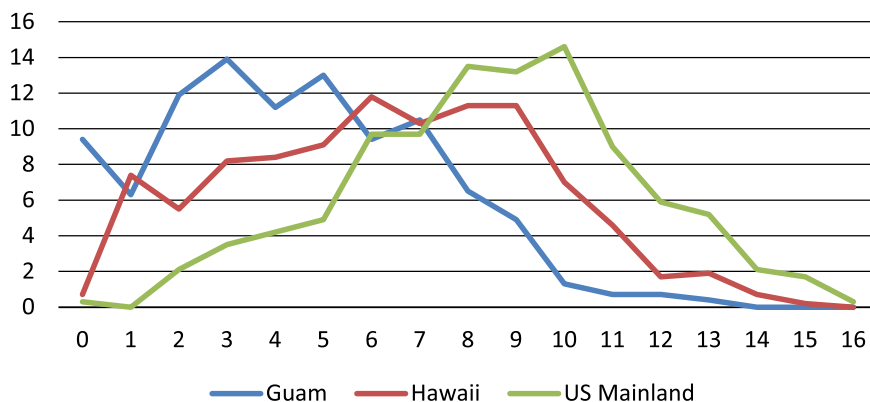
The maximum score was 18, and the minimum was 0 (see Table 30 and Figure 24).

Table 30: Micronesianness score of migrants by receiving area, 2012

Score	Guam		Hawaii		US Mainland	
	Total	Per cent	Total	Per cent	Total	Per cent
Total	447	100.0	417	100.0	288	100.0
0	42	9.4	3	0.7	1	0.3
1	28	6.3	31	7.4	0	0.0
2	53	11.9	23	5.5	6	2.1
3	62	13.9	34	8.2	10	3.5
4	50	11.2	35	8.4	12	4.2
5	58	13.0	38	9.1	14	4.9
6	42	9.4	49	11.8	28	9.7
7	47	10.5	43	10.3	28	9.7
8	29	6.5	47	11.3	39	13.5
9	22	4.9	47	11.3	38	13.2
10	6	1.3	29	7.0	42	14.6
11	3	0.7	19	4.6	26	9.0
12	3	0.7	7	1.7	17	5.9
13	2	0.4	8	1.9	15	5.2
14	0	0.0	3	0.7	6	2.1
15	0	0.0	1	0.2	5	1.7
16	0	0.0	0	0.0	1	0.3

Source: 2012 Surveys of Micronesianness migrants.

Figure 24: Micronesianness by receiving areas, 2012



Source: 2012 Surveys of Micronesianness migrants.

Note: Includes only people born in the Federated States of Micronesia.

B.2.2. Emigration for employment

The surveys indicate that Micronesians on the US Mainland were most likely to be in employment – more than 60 per cent (Table 31). Those in the CNMI were least likely to be in paid employment at about 20 per cent. CNMI and Hawaii had the largest proportions doing paid work and subsistence, while Hawaii’s migrants reported the largest percentages doing subsistence only. It is important to remember that subsistence encompasses more than just fishing and growing taro, but also includes those making handicrafts (although these are supposed to be for the home – when made for sale, they should have been reported as working for pay, although the enumerators may not have known that.) About 70 per cent of the adult migrants to CNMI were reported as not working.

Table 31: Work in previous week by location of migrants, 2012

Work in previous week	Total	Hawaii	Guam	CNMI	US Mainland
Total	33,278	5,550	8,215	2,637	16,876
Yes, paid and no subsistence	15,163	1,314	3,068	489	10,292
Yes, paid and subsistence	1,275	644	172	190	269
Per cent paid	49.4	35.3	39.4	25.7	62.6
Yes, subsistence only	700	403	162	28	107
No	16,139	3,188	4,813	1,931	6,207

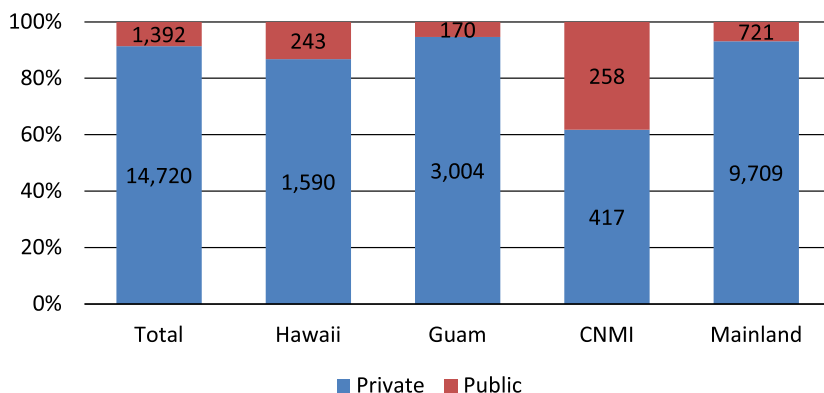
Source: 2012 Surveys of Micronesian migrants.

Because most of the Micronesian migration is relatively recent, and because it is harder for them to qualify for some public sector jobs since they are not US citizens, the ratio of private to public sector jobs is high in all areas except for the Northern Mariana Islands. Even in CNMI, about 60 per cent of the migrant workers were working for the government; many of these migrants had family contacts before their movement, helping to ease them into public sector jobs (Table 32 and Figure 25). Less than 10 per cent of all the 2012 Micronesian migrants were in the public sector, with CNMI having the largest per cent in that sector, and Guam and the US Mainland having the smallest percentages.

Table 32: Class of worker by location of migrants, 2012

Class of worker	Total	Hawaii	Guam	CNMI	US Mainland
Total	16,440	1,959	3,240	679	10,562
Private company	14,720	1,590	3,004	417	9,709
Per cent	89.5	81.2	92.7	61.4	91.9
Government	1,392	243	170	258	721
Self employed	328	126	66	5	131

Source: 2012 Surveys of Micronesian migrants.

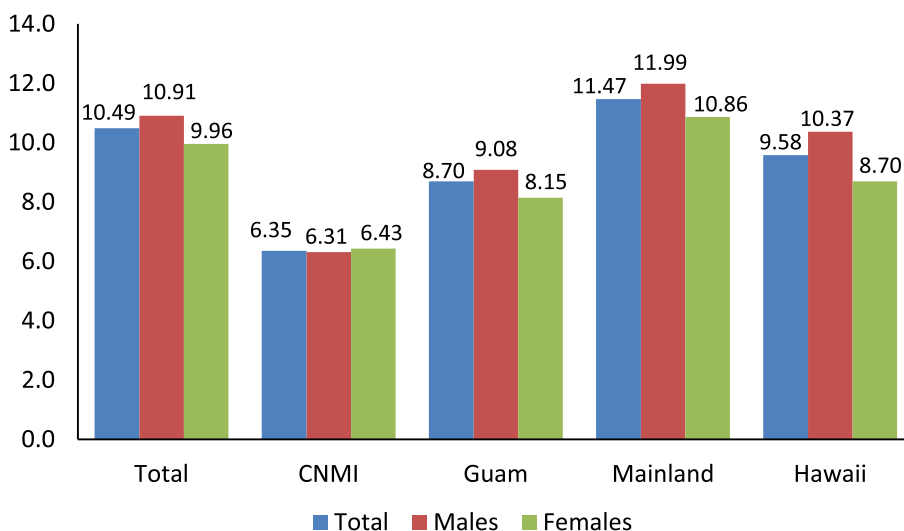
Figure 25: Private and public sector employees by place of migrants, 2012

Source: 2012 Surveys of Micronesian migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

The surveys asked questions on hourly wages to adults working for pay. The average hourly wage for paid workers among all the migrants was about USD 10.49, about 50 cents higher for males, and about 50 cents lower for females (Figure 26). The females were better off, relatively, than the 70 per cent in the general US population. But the actual wages were very low. If an average of 2,000 hours a year of work were assumed, then the average annual wage would only be about USD 21,000, and this does not account for family size (although, if a household had more than one worker, the wages would be additive, and so the family and household annual income would be higher).

Figure 26: Average hourly wage by place of migrants, 2012



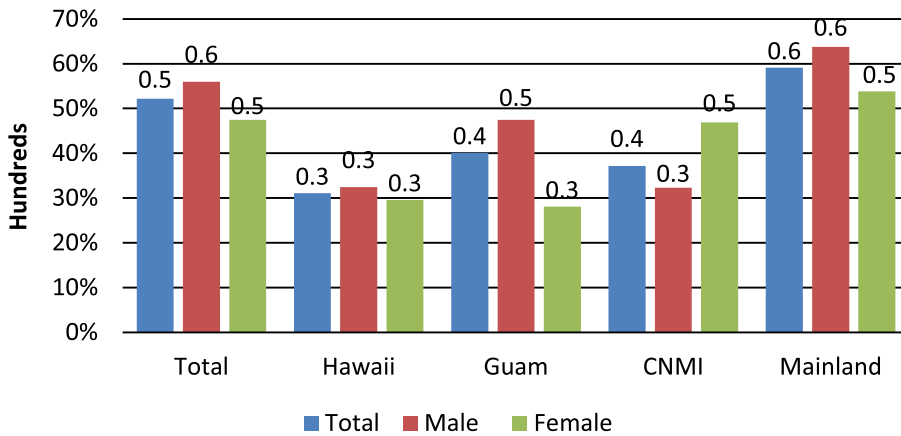
Source: 2012 Surveys of Micronesian migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

The average hourly wage in the CNMI was lowest by far, at only USD 6.35 (less than USD 13,000 per year), with females earning slightly higher wages than male migrants. Wages in Guam were next, with the USD 8.70 per hour being only about USD 1.50 higher than the US minimum wage, which is the minimum for Guam as well. The Hawaii average was less than USD 10, although males were earning about USD 1.50 more than females per hour. And the wages on the US Mainland were highest, at almost USD 11.50 per hour. The US poverty level for a family of four in 2012 was USD 23,050, so the majority of the population with one wage earner was below that level.

While the items above referred to work in the week before the survey, the surveys also asked for work during all of 2011 to account for those doing intermittent work, or those who moved from Micronesia during the year. About half of all migrant workers in 2011 worked full-time and year-round, with males more likely than females to have worked full time. Adults in Hawaii were least likely to have worked year-round full-time (31%), followed by CNMI (37%), Guam (40%) and the US Mainland (59%) (Figure 27). On paper, those moving to the US Mainland seem to have become most like other US workers, having left the more intermittent type of work frequently seen in Micronesia itself. Almost two out of every three of the US Mainland male migrants had worked year-round full-time in 2011.

Figure 27: Year-round full-time 2011 migrant workers by sex and place, 2012

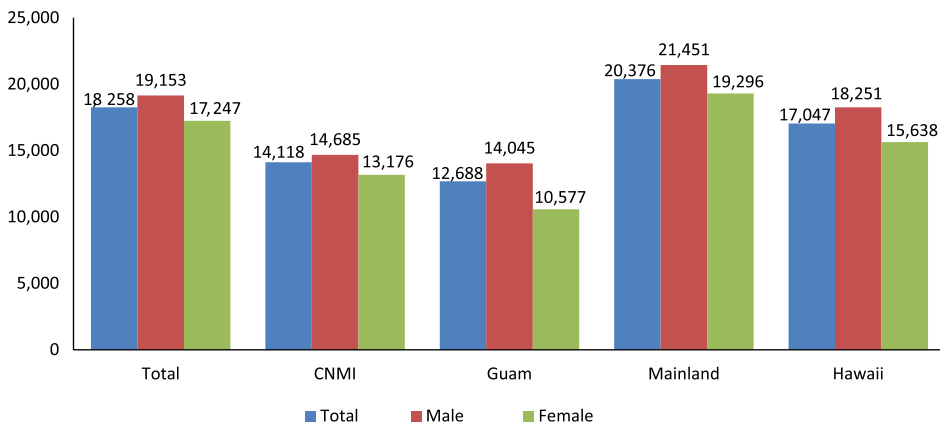


Source: 2012 Surveys of Micronesians migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

The average annual wage income for all of the migrants in 2011 was about USD 18,258 (whether they were full-time year-round workers or not). The highest wages were obtained in the US Mainland (at USD 20,376), followed by Hawaii (USD 17,047), Guam (USD 12,688) and the CNMI (USD 14,118).

Figure 28: Average wage income of migrants in 2011 by sex and place, in USD



Source: 2012 Surveys of Micronesians migrants.

Note: Population estimates from 2003 Survey and interim births and migrants.

Remittances

Migrant remittances to many Pacific island countries provide large parts of the gross domestic product (GDP). Table 33 shows per capita amounts based on total remittances provided by Connell and Brown (2005) and the most recent census population totals. On average, for example, Tonga emigrants remit an average of USD 633 for every man, woman and child in the country. Remittances for Samoa are also high. These two countries are usually used as examples of how remittances partially fund governments.

Other countries with large resident populations, such as Papua New Guinea, Fiji and the Solomon Islands, did not do as well. (Fiji was negative for a while when remittances were going to those outside because of the disturbances.) The smaller countries with populations that were severely restricted in emigration because of the receiving country's visa restrictions had low remittances. But both the Federated States of Micronesia and the Marshall Islands, with free legal entry into the United States and its territories, should see remittances at least as high as those seen for Samoa and Tonga. And, yet they do not. Average remittances for the Marshall Islands were USD 11 per person in 2002, and USD 22 on average for the Federated States of Micronesia.

Table 33: Gross private transfer receipts per capita, 1995 to 2002 (in USD)

Country	Census year	Population (,000)	1995	1996	1997	1998	1999	2000	2001	2002
Cook Islands	2011	15	87	93	93	80	80	73		
Fiji	2007	837	-32	-36	-14	-8	-13	-15	48	63
Kiribati	2010	103	50	58	66	65	69	58	55	58
Marshall Islands	2011	53	9	9	9	11	11	11	11	11
Federated States of Micronesia	2010	103	12	14	17	18	21	21	21	22
Papua New Guinea	2011	7,060	9	7	10	12	9	2	4	3
Samoa	2011	188	188	196	223	198	221	232	222	308
Solomon Islands	2009	516	43	36	34	23	48	32	46	31
Tonga	2011	103	455	436	431	429	390	466	526	633
Tuvalu	2011	11	182	182	364	364	364	364	445	
Vanuatu	2009	234	53	53	59	67	80	117	169	131

Source: Connell and Brown, 2005.

The 2010 Federated States of Micronesia Census collected information on remittances received, as summarized in Table 34. Of the almost 16,800 households in the census, about 6,800 received remittances, or about 40 per cent (2 in every 5 households). The percentages were highest for Kosrae (at 3 in 5) and Chuuk (about half), but lower for Pohnpei (about 1 in 3), and very low for Yap (about 1 in 8). The median amount – the amount with half of the households getting less and half more – was about USD 700 according to the census reporting. The median was lowest for Yap, at about USD 337, and highest for Pohnpei (USD 803) and Kosrae (USD 782).

Table 34: Household remittances received in 2009 (in USD)

Remittances	Total	Yap	Chuuk	Pohnpei	Kosrae
Total households	16,767	2,311	7,024	6,289	1,143
Households with remittances	6,795	283	3,704	2,134	674
Per cent	40.5	12.2	52.7	33.9	59.0
Median amount	686	337	629	803	782
Mean amount	1,120	832	1,013	1,383	989
Mean for all units	454	102	534	469	583

Source: 2010 Federated States of Micronesia Census unpublished table.

Table 35 shows the other end of the stream taken into consideration that the 2012 surveys was a sample survey. Results are similar however. Where the 2010 Federated States of Micronesia Census showed a mean amount of USD 1,120 being received by those receiving remittances, the 2012 surveys showed an average of USD 1,026 being remitted to households they were sending remittances to. The highest average remittances were coming from the US Mainland, at an average of USD 2,320, with Hawaii also contributing near the average, at USD 1,081. Households in the CNMI sent much lower remittances, about USD 251 from households on Guam who remitted about USD 449.

Table 35: Average remittances from Micronesian migrants, 2012 (in USD)

Remittances	Total	Hawaii	CNMI	Guam	US Mainland
Total	1,306	395	176	447	288
None	447	75	118	200	54
Less than 100	27	5	4	17	1
100 to 249	173	66	17	76	14
250 to 499	84	28	9	32	15
500 to 999	166	67	14	38	47
1,000 or more	409	154	14	84	157
Mean	1,026	1,081	251	449	2,320

Source: 2012 Surveys of Micronesian migrants.

Table 36 inflates the numbers by multiplying the number of units by the average remittances. By these calculations, households in the Federated States of Micronesia would be receiving about USD 25.6 million in remittances over the year, based on Hezel’s estimated household count. About USD 19.3 million originate from the US Mainland, about USD 3.6 million from Hawaii, about USD 2.2 million from Guam and about USD 0.4 million from the CNMI.

Table 36: Remittances from Micronesian migrants, 2012 (in USD)

Remittances	Total	Hawaii	CNMI	Guam	US Mainland
Mean	1,026	1,081	251	449	2,320
Estimated total	25,597,532	3,602,973	418,666	2,242,500	19,333,393
Estimated households	18,332	3,333	1,666	5,000	8,333

Source: 2012 Surveys of Micronesian migrants.

Data collected by the World Bank indicate that 7 per cent of GDP derives from personal remittances in Micronesia.

B.2.3. Emigration for study

The Department of Education provides data on the number of schools operational in Micronesia. Due to the current migration trend, some schools are closing or being combined because of the lack of students. Table 37 shows the number of schools in the Federated States of Micronesia by level of schooling. While the numbers increased in the early part of the century, they are now declining.

Table 37: Number of schools by level, SY 2003–2004 to SY 2012–2013

School level	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11	2011–12	2012–13
Total	182	175	194	195	195	195	192	193	190	188
Elementary	146	140	158	157	158	159	156	156	151	150
Secondary	32	31	32	34	33	32	32	33	35	34
Tertiary	4	4	4	4	4	4	4	4	4	4

Source: Federated States of Micronesia Department of Education.

Several organizations are providing funding, either directly or indirectly, to enhance educational attainment in the Federated States of Micronesia. Habel, for example, is a non-profit organization set up specifically to provide

scholarships for Outer Islands students in Yap, Chuuk and Pohnpei to attend private schools within the Federated States of Micronesia. In recent years, its expenditure was about USD 14,000 a year, but that jumped to USD 78,000 in 2013 thanks to grants from other agencies. Xavier High School and some of the Seventh-day Adventist schools also benefit from former Peace Corps, other former government employees and others by covering tuitions for promising young students.

Quality of education remains the biggest challenge. Some teachers do not have bachelor's degrees and many of the high schools are not preparing the students adequately even to pass the College of Micronesia Entrance Test (COMET). As Table 38 shows, for 2012 and 2013, smaller than needed numbers of students are passing the entry test. Of the 1,600 students who took the test in 2012, about 75 per cent of the students passed the test. However, in 2013, only about half of the students taking the test passed it, including only 1 in 4 of the Chuukese students.

Table 38: Results of COMET, 2012 and 2013

Year	Total	Not admitted		Admitted			
		Number	Per cent	Total	Degree	Achieving College Excellence	Certificate
2012							
Total	1,609	405	25.2	1,204	465	345	394
Chuuk	557	292	52.4	265	134	59	72
Kosrae	146	10	6.8	136	40	42	54
Pohnpei	747	73	9.8	674	249	205	220
Yap	159	30	18.9	129	42	39	48
2013							
Total	1,575	748	47.5	827	287	169	371
Chuuk	625	447	71.5	178	65	28	85
Kosrae	148	48	32.4	100	29	22	49
Pohnpei	666	219	32.9	447	148	103	196
Yap	135	33	24.4	102	45	16	41

Source: COM Research.

The low numbers passing the COM test is indicative of the problems of those emigrating for schooling. Even many of those going to COM must take remedial courses in order to start the regular course work there. Those wanting to go outside Micronesia for tertiary education are even more handicapped by the education they have received.

Table 39 provides the numbers of students of the Federated States of Micronesia enrolled at the University of Guam (UOG), the closest university in the country. The number of students increased in recent years. However, many of these students had come to Guam with their parents, and therefore, finished high school there, and were more likely to be able to handle the university work.

Table 39: UOG students enrolled, FSM-based: Academic years 2008–2009 to 2012–2013

Semester	Total	Chuuk	Kosrae	Pohnpei	Yap
Spring 2013	189	77	18	52	42
Fall 2012	183	81	17	52	33
Spring 2012	154	72	10	40	32
Fall 2011	145	68	12	38	27
Spring 2011	146	64	11	40	31
Fall 2010	141	69	10	39	23
Spring 2010	132	54	17	40	21
Fall 2009	132	62	13	35	22
Spring 2009	85	31	4	32	18
Fall 2008	91	39	7	26	19

Source: University of Guam, 2013 Report, Tables 6–21.

The Guam Community College (GCC) is a school that offers two-year education leading to associate's degrees, although some of the students who finish their two years there move on to UOG. GCC costs are cheaper than the UOG. The data in Table 40 show that about the same numbers of students attended GCC, as well as UOG. However, while Chuukese made up about two thirds of the GCC students, they were less than half of those attending UOG. These data show enrollees and not graduates however.

Table 40: Students from the Federated States of Micronesia at Guam Community College, 2006 to 2013

Ethnicity	2006	2007	2008	2009	2010	2011	2012	2013
Total	191	191	131	175	200	231	224	213
Chuukese	138	139	100	121	144	156	122	118
Kosraeans	8	4	2	5	6	9	5	9
Pohnpeians	17	14	7	17	23	32	42	36
Yapese	28	34	22	32	27	34	55	50

Source: GCC AY 2013–2014 Fact Book, page 12.

Note: Figures are for Fall enrolments each year.

The University of Hawaii is a more respected academic institution than UOG, with a larger selection of majors, but many of the Micronesian graduates choose not to return. Of those who do return, most quickly get jobs, mostly in the government (see Table 41).

Table 41: Federated States of Micronesia citizen students enrolled in University of Hawaii system, Fall 2014

Major	Total	Manoa/ West Oahu	Hilo	Community College
Total	195	37	66	92
Sciences	17	3	12	2
Social science	24	6	13	5
Education	11	7	1	3
Tourism	6	2	0	4
Business	32	6	15	11
Liberal arts	35	3	0	32
Mechanics and construction	10	2	1	7
Administration of justice	13	0	6	7
Agriculture	2	0	2	0
Computer science/network	6	1	1	4
Public health	1	1		0
Unclassified	38	6	15	17

Source: Institutional Research and Analysis, University of Hawaii Manoa, unpublished table.

B.2.4. Return migration

Return migration is usually difficult to define and monitor. Censuses are snapshots of a population, while migration flows are dynamic. Hence, while the census can summarize how many people moved from their birthplace to the place they are living at the time of the enumeration, it cannot show where they went in between the two points in time. Return migration requires good understanding on the migration route, such as where a person was born, where they were previously and where they were at the time of the census or survey. Again, it is not possible to tell intervening movements except with a more intensive, detailed migration survey. As the sections on residence five years ago and residence one year ago show, movements can be traced as snapshots, which do provide useful information, but without linking to education received or employment histories, the complete effects of the time away on the return migrants cannot always be identified. Involuntary return is easier to track for a country.

The special arrangement that the Federated States of Micronesia has with the United States, as a Freely Associated State, allows for visa-free entry into the United States. However, if a Micronesian commits a crime – even a misdemeanour – he or she is subject to deportation. The United States immigration service provides the Federated States of Micronesia Immigration with the names and reasons for deportation of those being deported. Altogether, 554 Micronesians from the Federated States of Micronesia have been officially deported from the United States over the years (Table 42). Of these, 533 were males and 21 were females. The median age for both males and females was 38 years. The largest numbers were in the 20- to 44-year age groups, with many fewer younger or older people.

Table 42: Deportees by age and sex, all years

Age	Total	Male	Female
Total	554	533	21
Less than 25 years	26	23	3
25–29 years	79	78	1
30–34 years	115	111	4
35–39 years	113	109	4
40–44 years	91	87	4
45–49 years	55	52	3
50–54 years	45	44	1
55 years and over	30	29	1
Median	37.5	37.5	38.1

Source: Federated States of Micronesia Immigration.

The largest number of deportees (121) was sent because of sex crimes, including with minors (Table 43). Rape was a separate category, having 10 males. Assaults, both general and aggravated, made up a large category. About 40 people were deported for what the United States calls “immigration” issues. Many of the individuals committed more than one crime, but only the first in the series of reported crimes is listed here.

Table 43: Deportees by reason and sex, all years

Reason	Total	Male	Female
Total	554	533	21
Abuse	25	22	3
Aggravated assault	33	33	0
Aggravated felony	36	36	0
Assault	94	91	3
Burglary	27	26	1
Drugs	44	43	1
Fraud	11	10	1
Homicide	11	10	1
Immigration	40	38	2
Larceny	25	21	4
Rape	10	10	0
Robbery	12	12	0
Sex crimes	121	120	1
Theft	23	21	2
Weapons	7	7	0
Other	35	33	2

Source: Federated States of Micronesia Immigration.

Chuuk had the largest number of deportees at 330 (about 60% of the total), with Pohnpei next (about 1 in 4), followed by Yap (42) and Kosrae (33) (see Table 44).

Table 44: Deportees by reason and State, all years

Reason	Total	Yap	Chuuk	Pohnpei	Kosrae
Total	554	42	330	149	33
Abuse	25	4	12	7	2
Aggravated assault	33	3	26	4	0
Aggravated felony	36	6	19	9	2
Assault	94	4	65	21	4
Burglary	27	0	15	11	1
Drugs	44	2	23	12	7
Fraud	11	1	4	6	0
Homicide	11	3	2	4	2
Immigration	40	1	27	11	1
Larceny	25	1	18	3	3
Rape	10	0	8	0	2
Robbery	12	0	10	2	0
Sex crimes	121	14	66	34	7
Theft	23	0	17	6	0
Weapons	7	0	3	4	0
Other	35	3	15	15	2

Source: Federated States of Micronesia Immigration.

Finally, the median age was youngest for those committing robberies, at 30 years, and oldest, at 44 years, for those deported for weapons violations (see Table 45).

Table 45: Deportees by reason and age, all years

Reason	Total	<25	25–29	30–34	35–39	40–44	45–49	50–54	55+	Median
Total	554	26	79	115	113	91	55	45	30	37.5
Abuse	25	1	0	2	6	8	6	1	1	42.2
Aggravated assault	33	1	4	7	9	5	1	1	5	37.5
Aggravated felony	36	1	7	9	4	9	0	3	3	36.3
Assault	94	0	11	25	22	12	15	5	4	37.5
Burglary	27	4	8	6	5	2	0	2	0	31.3
Drugs	44	1	5	9	5	11	6	5	2	40.9
Fraud	11	0	1	3	3	2	0	1	1	37.5
Homicide	11	0	0	1	2	3	2	2	1	44.2
Immigration	40	2	5	12	10	3	4	2	2	35.5
Larceny	25	3	5	3	5	4	2	2	1	36.5
Rape	10	1	1	4	1	2	0	1	0	33.8
Robbery	12	4	2	2	1	2	1	0	0	30.0
Sex crimes	121	6	16	24	27	15	10	15	8	37.7
Theft	23	1	12	3	3	3	0	1	0	29.4
Weapons	7	1	0	0	0	3	1	2	0	44.2
Other	35	0	2	5	10	7	7	2	2	40.4

Source: Federated States of Micronesia Immigration.

B.3. Internal/inter-island migration

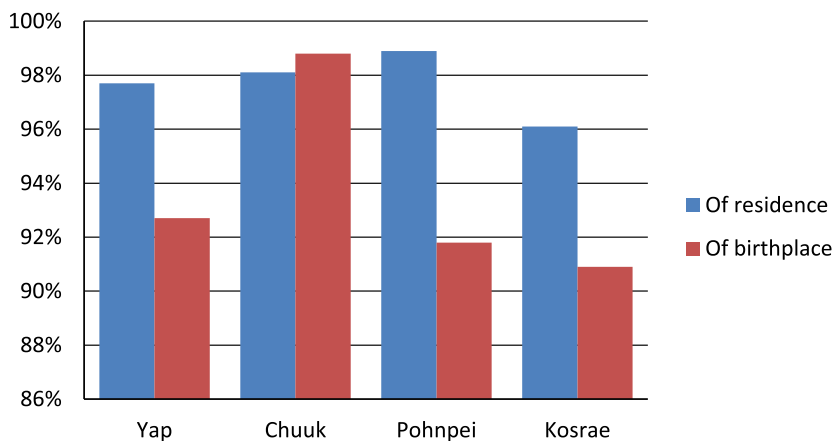
Early censuses carried out by Japan saw little internal migration between the States, and such limited mobility between States remains even today (Gorenflo and Levin, 1992; Levin, 2014). Because Pohnpei is the capital of the Federated States of Micronesia, some people have moved there, mostly for government jobs, although some also came for the few private sector jobs. Table 46 and Figure 29 show state of birth by State of usual residence from the 2010 census. More than 98 per cent of Chuukese (both by birth and by residence), for example, had Chuuk as both their birthplace and residence. But even then, about 800 people born on Chuuk were living on Pohnpei at the time of the 2010 census. Nonetheless, as the table and graph show, few people leave their State of birth.

Table 46: Birth state by State of usual residence, 2010

State of birth	State of usual residence				Column per cents				Row per cents						
	Total	Yap	Chuuk	Pohnpei	Kosrae	Total	Yap	Chuuk	Pohnpei	Kosrae	Total	Yap	Chuuk	Pohnpei	Kosrae
Total	102,843	11,377	48,654	36,196	6,616	100.0	100.0	100.0	100.0	100.0	100.0	11.1	47.3	35.2	6.4
Yap	10,800	10,547	20	228	5	10.5	92.7	0.0	0.6	0.1	100.0	97.7	0.2	2.1	0.0
Chuuk	48,978	100	48,055	794	29	47.6	0.9	98.8	2.2	0.4	100.0	0.2	98.1	1.6	0.1
Pohnpei	33,598	86	105	33,245	162	32.7	0.8	0.2	91.8	2.4	100.0	0.3	0.3	98.9	0.5
Kosrae	6,257	6	4	233	6,014	6.1	0.1	0.0	0.6	90.9	100.0	0.1	0.1	3.7	96.1
Elsewhere	3,210	638	470	1,696	406	3.1	5.6	1.0	4.7	6.1	100.0	19.9	14.6	52.8	12.6

Source: 2010 FSM Census unpublished tables.

Figure 29: Same State of residence as birthplace, 2010



Source: 2010 FSM Census unpublished tables.

Table 47 shows that the sexes did not differ much in the amount of inter-State migration. The data from the 1994, 2000 and 2010 censuses all show about 96 per cent of the males and 97 per cent of the females lived within the Federated States of Micronesia, and as above, most lived in the same State.

Table 47: Birthplace of residents of the Federated States of Micronesia by sex, 1973 to 2010

Birthplace	Total			Male			Female					
	1973	1994	2000	2010	1973	1994	2000	2010	1973	1994	2000	2010
Total	66,318	105,506	107,008	102,843	34,238	53,923	54,191	52,193	32,080	51,583	52,817	50,650
Per cent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In the Federated States of Micronesia	92.1	96.8	97.1	96.9	90.8	95.9	96.8	96.2	93.4	97.7	97.4	97.6
Outside the Federated States of Micronesia	7.9	3.2	2.9	3.1	9.2	4.1	3.2	3.8	6.6	2.3	2.6	2.4
United States	1.1	0.9	1.1	1.3	1.4	1.0	1.2	1.4	0.9	0.8	1.0	1.3
Asia	0.5	1.7	1.2	1.3	0.8	2.5	1.3	1.9	0.2	0.9	1.0	0.6
Elsewhere	6.3	0.6	0.7	0.5	7.0	0.6	0.7	0.5	5.5	0.6	0.7	0.5

Sources: 1973 TPI Census, unpublished data; 1994 Federated States of Micronesia Census, Table P17, 2000 Federated States of Micronesia Census, Table P2-5.
 Note: United States includes Guam and CNMI; Elsewhere includes other countries not listed.

Table 48: State of birth of residents born in the Federated States of Micronesia, 1994, 2000 and 2010

Birthplace	Numbers					Per cent				
	Total	Yap	Chuuk	Pohnpei	Kosrae	Total	Yap	Chuuk	Pohnpei	Kosrae
1994										
Total	102,114	10,419	52,571	32,306	6,818	100.0	100.0	100.0	100.0	100.0
Yap	10,539	10,326	36	171	6	10.3	99.11	0.07	0.53	0.09
Chuuk	53,010	55	52,347	588	20	51.9	0.52	99.60	1.82	0.29
Pohnpei	31,595	33	170	31,233	159	30.9	0.32	0.30	96.68	2.33
Kosrae	6,970	5	18	314	6,633	6.8	0.05	0.03	0.97	97.29
2000										
Total	103,891	10,404	53,285	32,920	7,282	100.0	100.0	100.0	100.0	100.0
Yap	10,600	10,303	59	224	14	10.2	99.03	0.10	0.7	0.19
Chuuk	54,006	47	53,093	804	62	52.0	0.45	99.60	2.4	0.85
Pohnpei	32,069	51	118	31,604	296	30.9	0.49	0.20	96.0	4.06
Kosrae	7,216	3	15	288	6,910	6.9	0.003	0.00	0.9	94.90
2010										
Total	99,633	10,739	48,184	34,500	6,210	100.0	100.0	100.0	100.0	100.0
Yap	10,800	10,547	20	228	5	10.8	98.21	0.00	0.70	0.08
Chuuk	48,978	100	48,055	794	29	49.2	0.93	99.70	2.30	0.47
Pohnpei	33,598	86	105	33,245	162	33.7	0.80	0.20	96.40	2.61
Kosrae	6,257	6	4	233	6,014	6.3	0.06	0.00	0.70	96.84

Source: 1994 Federated States of Micronesia Census, Table P17; 2000 Federated States of Micronesia Census, Table P2-5; 2010 Federated States of Micronesia Census B05.

Similarly, Table 48 shows the State-to-State migration, as well as persons outside Micronesia five years before the 1994, 2000 and 2010 enumerations. These data also confirms limited movement between the States and over the five-year period.

Urban and rural residence

The Census Bureau defines “urban” as “the territory identified according to criteria must encompass at least 2,500 people, at least 1,500 of which reside outside institutional group quarters”. The defined urban areas in the Federated States of Micronesia are the following:

- (a) Parts of Weloy and Rull in Yap that make up Colonia, the State capital;
- (b) Weno island in Chuuk lagoon;
- (c) Kolonia municipality in Pohnpei; and
- (d) Lelu Island in Kosrae.

Table 49 shows the counts for urban and rural areas as defined by the Government of the Federated States of Micronesia. As can be seen, the numbers for both Yap and Kosrae are below the minimum of what the Census Bureau defines. Only 7 per cent of Yap's population lived in the Colonia "urban" area, compared to almost one in three of those living in Kosrae. But Kosrae has no Outer Islands; in both cases, other areas of the main islands have ready access to the port and other activities in the capitals. More than one in four of Chuuk's residents lived in urban areas (on Weno) in 2010, and about one in seven of those in Pohnpei State.

Table 49: Urban/rural residence by State, 2010

State	Total	Urban		Rural
		Number	Per cent	
Total	102,843	22,930	22.3	79,913
Yap	11,377	840	7.4	10,537
Chuuk	48,654	13,856	28.5	34,798
Pohnpei	36,196	6,074	16.8	30,122
Kosrae	6,616	2,160	32.6	4,456

Source: 2010 Federated States of Micronesia Census of Population and Housing.

Table 50 shows numbers of urban and rural residence in 2010 by sex. The numbers for males and females were about the same. About 7 per cent of those in Yap lived in urban areas, 28 per cent of those in Chuuk, 17 per cent of those in Pohnpei and 33 per cent of those in Kosrae.

Table 50: Urban/rural residence by State and sex, 2010

State	Males				Females			
	Total	Urban		Rural	Total	Urban		Rural
		Number	Per cent			Number	Per cent	
Total	52,193	11,547	22.1	40,646	50,650	11,383	22.5	39,267
Yap	5,635	413	7.3	5,222	5,742	427	7.4	5,315
Chuuk	24,835	7,039	28.3	17,796	23,819	6,817	28.6	17,002
Pohnpei	18,371	2,998	16.3	15,373	17,825	3,076	17.3	14,749
Kosrae	3,352	1,097	32.7	2,255	3,264	1,063	32.6	2,201

Source: 2010 Federated States of Micronesia Census of Population and Housing.

In 2010, about half of the non-citizens of the Federated States of Micronesia in the country were living elsewhere in 2005, as shown in Table 51. About 21 per cent of those living in urban areas lived outside the Federated States of Micronesia in 2005 compared to about 56 per cent of those living in

rural areas. As with the citizens of the Federated States of Micronesia, more foreigners went to urban than rural areas. However, of those who were away five years before the census but in the Federated States of Micronesia in 2010, more went to rural than urban areas.

Table 51: Urban/rural residence in 2005 and 2010 for non-citizens, 2010

2010 residency	Total	Urban	Rural	Elsewhere
Total	2,261	661	479	1,121
Urban	905	518	20	367
Rural	1,356	143	459	754
Vertical percentages				
Total	100.0	100.0	100.0	100.0
Urban	40.0	78.4	4.2	32.7
Rural	60.0	21.6	95.8	67.3
Horizontal percentages				
Total	100.0	29.2	21.2	49.6
Urban	100.0	57.2	2.2	40.6
Rural	100.0	10.5	33.8	55.7

Source: 2010 FSM Census of Population and Housing.

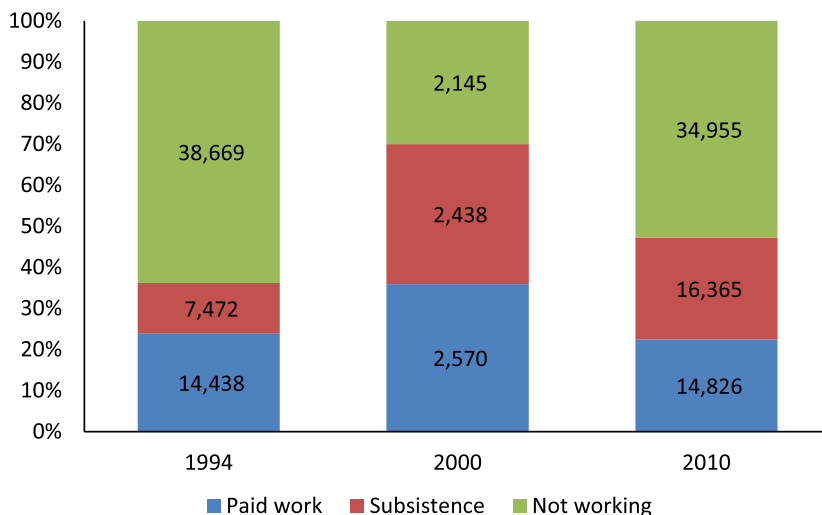
Table 52 and Figure 30 show economic activity in the week before the census for the 1994, 2000 and 2010 censuses. The percentage of adults doing paid work did not change very much over the period, staying between 24 and 22 per cent. But the reported percentage doing subsistence activities increased from 16 per cent in 1994 to 32 per cent in 2000 – effectively doubling – where it stayed in 2010. It is quite clear that the definition of subsistence in 1994 differed from the two subsequent censuses, since this change is not possible. The problem is for those doing subsistence activities; people who were actually doing subsistence were reported as “not working” in the 1994 census for some reason.

Table 52: Economic activity, 1994, 2000 and 2010

Economic activity	Numbers			Per cent		
	1994	2000	2010	1994	2000	2010
Total	60,579	63,836	66,146	100.0	100.0	100.0
Paid work	14,438	13,959	14,826	23.8	21.8	22.5
Paid work with no subsistence	12,185	10,868	11,014	20.1	17.0	16.7
Paid work with subsistence	2,253	3,091	3,812	3.7	4.8	5.8
Subsistence	9,725	20,516	20,177	16.0	32.1	30.5
Subsistence with paid work	2,253	3,091	3,812	3.7	4.8	5.8
Subsistence only	7,472	17,425	16,365	12.3	27.3	24.7
Not working	38,669	32,452	34,955	63.8	50.8	52.8

Sources: 1994, 2000 and 2010 Federated States of Micronesia Censuses of Population and Housing.

Figure 30: Paid work and subsistence, 1994, 2000 and 2010



Sources: 1994, 2000 and 2010 Federated States of Micronesia Census of Population and Housing.

Unfortunately, there is no data collected on induced environmental displacement.

B.4. Migration projections: Understanding the current and long-term impact for Micronesia

The trend demonstrates that Micronesians will continue to migrate. Others will stay, either because they have jobs and/or prefer part or complete subsistence living. While the Government of the Federated States of Micronesia has done an excellent job in enumerating its own population, neither it nor other agencies have been able to determine accurate estimates of the current populations in Hawaii and the US Mainland, let alone make projections.

The SPC, however, has developed periodical projections for its Member Countries. The current projections for the Federated States of Micronesia are summarized in Table 53.

Table 53: SPC population projections

Year	Estimate
2015	113,864
2020	116,512
2025	118,831
2030	121,051
2035	124,059
2040	127,798
2045	132,298
2050	137,554

Source: SPC Statistics.

It is very unlikely that these levels will be reached even if migration out of the Federated States of Micronesia stopped completely. The almost 114,000 figure for 2015 is clearly based on the 2000 population of about 107,000, rather than the 2010 population. And, as the migration continues and fertility continues to decline, the population of the Federated States of Micronesia will most likely continue to decline as well. So, the population of migrants will increase based on the first (the migrants themselves) and second generation (the children of the migrants) even without additional migrants. Currently, the Federated States of Micronesia's biggest export is its people.

B.5. Migration and economic development

Micronesia faces many challenges to encourage investment. The country is isolated in the middle of the Pacific Ocean, has a fair economic infrastructure, including long, state-of-the-art airstrips, and has inadequate tourism facilities. The small number of foreign-born in the Federated States of Micronesia has not played a significant investment role. Similarly, the diaspora is not actively sending remittances, preferring instead to bring relatives out of the Federated States of Micronesia. Therefore, neither type of migration affects the output in the small economy that exists as households' capacity to consume and produce local goods or in other ways. Also, because of the current structure, migration does not lead to innovation through transfers of know-how and technologies. This lack of interest in economic development prohibits large levels of savings that might lead to innovations and economic growth.

Many people use internal migration to move from the Outer Islands and outer areas of the main islands into the capitals, hoping they can find work, and therefore move from subsistence to the market economy. Unfortunately, many of the skills needed to be part of the public sector in Micronesia, basically what would be entry-level positions in other countries, require skills that those coming from a subsistence economy do not possess. That is, because most of the private sector supports the public sector mostly with small stores, workers need some math and English speaking (in most cases) skills to interact with consumers.

Emigration is growing in importance, with roughly one third of the population (50,000 emigrants compared to about 100,000 resident Micronesians) living outside the Federated States of Micronesia (Hezel, 2013). Because the inflow of formal remittances is still low, it is very unlikely to affect the economic development unless specific incentives are developed to encourage smoother transfer of remittances and small and medium enterprises, as well as social development programmes in Micronesia. Nowadays, many Micronesians are not very familiar with how financial institutions work and their limited understanding of the financial systems do not limit remittance recipients' use of the financial system because the amounts remitted tend to be small and are usually used for immediate needs; in fact, remitters are often requested to send funds for specific needs, such as tuition or airfare, and not to be saved.

One area where emigration plays a role in economic development in the Federated States of Micronesia is the increased demand for national goods in Guam, Hawaii and the US Mainland. Every United flight to Guam or Hawaii is full of coolers with fish, taro, breadfruit and other Micronesian delicacies and

handicrafts on their way to relatives and friends in the receiving areas. Hence, it is very likely that the diaspora increases production, albeit minimally, in the States of Micronesia. However, because of their small numbers, it is very unlikely that the inflow of migrant workers enables domestic producers of goods to expand for them within the Federated States of Micronesia or for produce export outside the country.

In many countries, immigration can alleviate the effects of demographic change, replacing a declining workforce. However, the Federated States of Micronesia remains a very young population, mostly because the demographic transition came so recently and the COFA makes it possible for basically free emigration.

The workforce is ageing, with the average age of all workers – both private and public sector – being about 40. And while some foreigners (both US citizens and others) have jobs that could be replaced by Micronesians, many times the skills sets of the Micronesians do not match those of the jobs.

Unemployment is high. Almost all adults living on the Outer Islands are “unemployed” by United States standards. However, the UN uses a different definition for “employment”, that someone doing subsistence activities (such as fishing and growing taro) is employed. By this definition, the unemployment rate is much lower. The migration of foreigners does not seem to affect the unemployment rate since so few of them come. However, while many people living on the Outer Islands, the outer areas of Pohnpei, Yap and Kosrae and the other islands of the Chuuk lagoon are happy doing subsistence, others would rather have paid jobs and cannot get them.

Underemployment is also a problem. Many college graduates returning to the Federated States of Micronesia cannot find jobs that reflect their majors and skills. As the data on UOG and Hawaii students in the text show, many of the degrees students obtain do not lead to appropriate jobs in Micronesia, and so those returnees must take other jobs, if any at all are available. Many wait for appropriate positions, and so are unemployed; others take lesser jobs and are underemployed.

The public sector remains larger than the private sector, which would be unsustainable if it were not for the continued subsidized funding from the United States. Immigration of foreign workers does not affect this very much because so few of them are residents. Emigration of the few skilled workers in the public sector – health, education and administration – also does not put pressure on the government to increase wages to retain workers.

B.6. Migration and social development

The Federated States of Micronesia's social protection system is open to all foreign and domestic residents. So, migrants and their families should not face difficulties in accessing education and social protection services in the Federated States of Micronesia. Legal status is not considered in education or social services.

For Micronesian emigrants, social conditions differ. While most of the emigrants are able to use regular migration channels to facilitate access to social protection in Guam, Hawaii and the US Mainland, some do not. Sometimes problems occur when the US social workers do not understand the relationship between the governments of the Federated States of Micronesia and United States, allowing free access to the same programmes as citizens. In addition, because the diaspora is more interested in uniting with relatives coming from the Federated States of Micronesia with their families in Guam, Hawaii and the US Mainland, they are therefore not investing in the country's social protection systems. Similarly, migrants do not remit, and so do not provide livelihood strategies and increased household capacity to invest in health care, adequate housing and sanitation, adequate food and water, children's education and health.

While many schoolchildren have emigrated, very few indigenous school teachers have left. One of Micronesia's current education problems is the under-education and weak English-speaking skills of the schoolteachers. Summer workshops and other aides and agencies are trying to rectify this, but as shown in the numbers of failed applicants in the text, education in Micronesia is still generally weak. So, emigration of teachers is small, does not lead to shortages at local or national level, nor does it affect the provision of or access to quality of education. Schools are not closing because of teacher shortages.

Among the Federated States of Micronesia's worries should be the "brain drain", or the emigration of highly qualified individuals. However, the Government of the Federated States of Micronesia does not currently have a policy enticing the educated to stay in Micronesia. So, emigration of service providers will probably lead to a shortage of trainers and professors and have a negative impact on the teaching of certain skills and subjects. Currently, the COM faculties use foreign born to teach many of the courses, without the goal of replacing these individuals with trained locals, and so the trained migrate.

The college does not do very much academic research, and so emigration of researchers does not facilitate the involvement of domestic research in international research networks to any extent.

On health care, emigrants and their dependants tend to get more and better health care while abroad compared to back home. Access in Micronesia is generally easier since it is cheaper and more “user friendly”, but generally is not up to standards, particularly compared to that received in Guam, Hawaii or the US Mainland. Many emigrants have health insurance, which generally allows them to go to hospitals with more and more varied health care, so those emigrants get much better health care abroad.

Many Micronesians must go abroad for medical care because such care is unavailable in Micronesia. Dialysis is very limited in Micronesia, when it is available at all, and so residence abroad is necessary. Similarly, those needing immediate access for heart or other organ problems must stay abroad to stay alive. Hence, such care can only be obtained outside Micronesia.

United States Social Security benefits are portable to the Federated States of Micronesia or any other country once the requirements – mostly age – are met. In most cases, Federated States of Micronesia migrants would need to work for at least 40 quarters or 10 years, and be of age in order to be eligible for Social Security payments. The Federated States of Micronesia’s Social Security system is also active, but the payments out of those are extremely low, partly because Micronesians are not required to put large amounts into the system as they work. Also, the Social Security system was originally built around the expectation that the US contributions would be long term into the future.

The United States is committed under the Compacts to concentrate on issues related to education and health. These commitments also pertain to the emigrants since they become part of the United States population, even as non-citizens, and are entitled to full health care unless non-citizens are specifically deprived of such health care. A current lawsuit in Hawaii concerns providing complete health care to the Micronesian emigrants.

B.7. Migration and the environment

The greatest environmental threat to the Micronesian islands is typhoons, which come with some regularity. The islands and atolls have also suffered from tsunamis generated by earthquakes around the Pacific Rim.

However, some groups of Micronesians are more vulnerable to the effects of environmental degradation and natural disasters than others. Clearly, life on atolls is always precarious. The atolls rarely rise to more than 20 ft above sea level, and are flat, perfect conditions for devastation by typhoons or tidal waves. What resources are there eventually do come back, although these resources, particularly food, are particularly limited. Most of the atolls receive food support, particularly rice and sugar, from the main islands to supplement their food even in the best of times. When disasters hit, residents often have to leave the atolls altogether to allow them to recover.

Table 54: Main disasters in the Federated States of Micronesia and total expenditures

FEDERATED STATES OF MICRONESIA			
Disaster	Date	Expenditure	
Drought	July 2007	USD 0.2 million	(Food only)
Typhoon Sudal	April 2004	USD 30 million	
Typhoon Lupit	December 2003	USD 2 million	
Typhoon Pongsona	January 2003	USD 3 million	
Tropical Storm Chata'an	July 2002	USD 32 million	(Mudslides)
Typhoon Mitag	July 2002	USD 2 million	
Drought	May 2002	USD 3 million	
Typhoon Fern	March 1997	USD 3 million	
Typhoon Axel	February 1992	USD 1 million	
Typhoon Yuri	December 1991	USD 2 million	
Typhoon Russ	January 1991	USD 2 million	
Typhoon Owen	December 1990	USD 26 million	

Source: FEMA Statistics.

PART C: MIGRATION GOVERNANCE

C.I. The 1975 Constitution of the Federated States of Micronesia⁵

The 1975 Constitution is the country's expression of sovereignty, establishing a single nation of the federated states that make up the Federated States of Micronesia.⁶ Both national and State governments are obliged to uphold the provisions of the Constitution.⁷

As a federation of States, powers are delegated among and between the national government and the States. The national government (through Congress) retains exclusive jurisdiction over powers expressly delegated to the national government and over powers that are of an "indisputably national character" and thus beyond the power of a State, or States, to control.⁸ This legal distinction has proven a challenge to interpret in practice, leading to a number of court cases where this distinction and the constitutionality of legislation and State actions under were brought into question.⁹

The Constitution establishes the system of governance for the nation, including the executive, legislative and judicial branches with exclusive powers (this is replicated at State level as well, under each State's own Constitution).

⁵ The Constitution provides for the establishment of various detailed elements of the nation's system of governance to be established by statute. This is done through laws passed and enacted in the Code of the Federated States of Micronesia, additional implementing regulations and presidential administrative directives.

⁶ This paper is intended for policy discussion and planning relating to migration and development. Citations in this paper do not follow strict legal convention. A more generic format easily accessible to the average reader (as well as lawyers) is used. Article II, Section 1, The Constitution of the Federated States of Micronesia, 1975.

⁷ Article XIII, Section 3, Constitution of the Federated States of Micronesia.

⁸ Article VIII, Section 1, Constitution of the Federated States of Micronesia.

⁹ Upward of 50 mixed cases are noted in the annotated version of the Constitution held on the FSM Supreme Court website. See <http://fsmcourtsupremecourt.org/fsm/constitution/article8.htm>

C.I.I. The Executive

The Constitution establishes the position, office and powers of the President.¹⁰ Government departments¹¹ and offices¹² under the purview of the executive are established by statute (Code of the Federated States of Micronesia).¹³ The precise roles and responsibilities of the departments and offices are established by the Administrative Directive of the President.¹⁴ The currently established departments and offices include the following:

- Department of Resources and Development;
- Department of Finance and Administration;
- Department of Foreign Affairs;
- Department of Health and Social Affairs;
- Department of Justice;
- Department of Transportation, Communication and Infrastructure (including a Project Management Unit for Compact Infrastructure Grants);
- Department of Education;
- Office of the Public Defender;
- SBOC;
- Office of Environment and Emergency Management;
- Office of the Public Auditor;
- Office of National Archives, Culture and Historic Preservation.¹⁵

Administrative Directives of the President establishing these departments and offices are a matter of public record. In practice, however, these documents are difficult to obtain. They are not housed on any of the institutions' websites (where available), not on the FSM Supreme Court's legal repository, nor are

¹⁰ See Article X – the Executive itself is not dealt with in detail here, but essentially establishes the position and institution of the Presidency of the country, binding it to faithful execution of the Constitution and all national laws, establishing the President as head of State, given powers to finally approved laws, certain veto rights, prescribing eligibility for, and manner for election of the President, and sets limitations on powers to suspend civil rights.

¹¹ The administrative head of each department shall be designated as a "Secretary" Title 2, Chapter 2, Section 203 (2), Code of the Federated States of Micronesia, 2014 version.

¹² The administrative head of each office shall be designated as a "Director" Title 2, Chapter 2, Section 203 (3), Code of the Federated States of Micronesia, 2014 version.

¹³ Article X, Section 8, Constitution of the Federated States of Micronesia.

¹⁴ "Duties, responsibilities, and functions of departments and offices. The respective duties, responsibilities, and functions of each department and office within the organization of the executive branch of the Government of the Federated States of Micronesia shall be as established by, and in accordance with, administrative directive of the President until amended or superseded by law. The President shall also provide for subdivisions of departments and offices and shall set forth the duties, responsibilities, and functions thereof by administrative directive." Title 2, Chapter 2, Section 206, Code of the Federated States of Micronesia, 2014 version.

¹⁵ Title 2, Chapter 2, Section 203 and 204, Code of the Federated States of Micronesia, 2014 version.

they available on the President of the Federated States of Micronesia’s website. The only way to obtain the Administrative Directives is through official requests to departments and offices – though such a request by no means guarantees response.

C.1.2. Legislative arm: Congress

The national government’s legislative powers rest with National Congress, which has exclusive jurisdiction to legislate in the following areas relevant to migration:

[...]

(b) to ratify treaties;

(c) to regulate immigration, emigration, naturalization, and citizenship;

[...]

(g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;

(h) to regulate navigation and shipping except within lagoons, lakes, and rivers;

[...]

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;

[...]

(p) to define national crimes and prescribe penalties, having due regard for local custom and tradition;

[...]

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.”¹⁶

Subsection (c) is noteworthy; there is a commonly held sentiment/belief that there is no ability to regulate outflow of citizens of the Federated States of Micronesia under the Compact as this could be considered infringing upon their

¹⁶ Article IX, Section 2, Constitution of the Federated States of Micronesia. As with Article VIII regarding Powers of Government, Section 2, (p) has generated significant amounts of case law; while the Constitution now reads: “to define national crimes and prescribe penalties...”, it originally used the term “major” instead of “national”, amended by Constitutional Convention Committee Proposal No. 90-13, effective on 2 July 1991. Most cases focused on the definition of “major” in relation to crimes and accordingly competing jurisdiction at the State or national level. Since the amendment to “national”, there have been far fewer cases.

rights of freedom of movement. However, the ability to regulate emigration, in addition to immigration, is in fact enshrined in the Constitution explicitly as a power of Congress.¹⁷ Regulation/legislation has been passed by Congress on the other areas noted in subsection (c), but not in relation to emigration.

C.1.3. Judicial arm: The Courts

At the national level, the Supreme Court of the Federated States of Micronesia is tasked with interpreting the constitution and laws of the nation – ensuring consistency with the “...Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia.”¹⁸ In the common law vein, previous court decisions are relevant to any ongoing proceeding, with national-level decisions binding on lower courts and a requirement that they be duly considered and applied at the Supreme Court level.¹⁹ It includes five Justices who sit in trial (first level) and appellate divisions (appeal from first level). Justices are nominated by the President for a lifetime appointment, and this appointment must be confirmed by the Congress.²⁰ In cases that include substantial questions regarding interpretation of the Constitution, national law or treaty, on request by a party or by proprio motu the Supreme Court of the Federated States of Micronesia will certify the question to the appellate divisions for decision or remand for further proceedings.²¹ Trial Divisions (that is standing branches of the Supreme Court of the Federated States of Micronesia) are established in each of the country’s four States.²²

C.1.4. National territory

The Constitution establishes the territory of Federated States of Micronesia as including all districts ratifying the Constitution (namely Chuuk, Kosrae, Pohnpei and Yap), and all waters connecting those islands.²³ The rights, powers and breadth of control exercised within this sphere are established and limited by the United Nations Convention on the Laws of the Sea (UNCLOS) to which

¹⁷ Article IX, Section 2, Constitution of the Federated States of Micronesia. As with Article VIII regarding Powers of Government, Section 2, (p) has generated significant amounts of case law; while the Constitution now reads, “to define national crimes and prescribe penalties...” it originally used the term “major” instead of “national”, amended by Constitutional Convention Committee Proposal No. 90–13, effective on 2 July 1991. Most cases focused on the definition of “major” in relation to crimes and accordingly competing jurisdiction at the State or national level. Since the amendment to “national”, there have been far fewer cases.

¹⁸ Article XI, Section 11, Constitution of the Federated States of Micronesia.

¹⁹ Article XI, Section 11, Constitution of the Federated States of Micronesia.

²⁰ See Article XI, Constitution of the Federated States of Micronesia, generally.

²¹ Article XI, Section 8, Constitution of the Federated States of Micronesia.

²² Title 4, Chapter 1, Section 109, Code of the Federated States of Micronesia, 2014 version.

²³ Article I, Section 1, Constitution of the Federated States of Micronesia.

the Federated States of Micronesia acceded in 1991.²⁴ UNCLOS determines the potential breadth and reach of the Federated States of Micronesia’s national and State laws within these waters, including powers and jurisdiction over the seabed, subsoil, water column, inter alia, important for the nation given the enormous expanse of water and earth included in this zone, the wealth of sea life within this zone, and the potential for eventual resource exploration via deep-sea techniques that continue to be developed.

C.I.5. Rights under the Constitution

Certain rights are enshrined by the Constitution as fundamental, while others are guaranteed more generally. Rights under the Constitution can be broadly separated – political and civil rights (contained in Article IV of the Constitution) and economic and social rights (General Provisions under Article XIII of the Constitution).²⁵ Civil and political rights are enumerated with greater breadth and detail indicating their prioritization over economic and social rights.²⁶

The preamble of the Constitution, though not technically an active legal provision, provides an important tool for interpreting and implementing the Constitution (particularly the fundamental rights enshrined therein) and all related subsidiary legislation by government, and indeed government policy and actions under the Constitution. It indicates that the Federated States of Micronesia extends “to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity.”²⁷ More firmly, elsewhere the Constitution establishes the obligation for national and State government to uphold the Constitution and advance the principles upon which it is founded, while public officials must swear an oath to uphold, promote and support the laws and the Constitution.²⁸

²⁴ United Nations Convention on the Law of the Sea of 10 December 1982. The Federated States of Micronesia became a party on 29 April 1991. The exact wording of the Constitution does not match UNCLOS rules; however, limitations under the Constitution are established by reference to international treaty obligations, Article I, Section 1, Constitution of the Federated States of Micronesia.

²⁵ These rights are further fleshed out in the Code of the Federated States of Micronesia as well.

²⁶ This is unsurprising given the extent of US legal influence in the Federated States of Micronesia, evident by the approach and language used in relation to rights. This approach in particular reflects the traditional view of the United States regarding the obligatory and firm nature of civil and political rights (enshrined internationally under the International Covenants on Civil and Political Rights to which the United States is party) versus the aspirational nature of economic and social rights (enshrined under the International Covenant on Economic and Social Rights – to which the United States is not a party and has traditionally resisted as reflecting the socialist values/norms of the nations that drove the treaty-making process).

²⁷ Para. 5, preamble, Constitution of the Federated States of Micronesia.

²⁸ Article XIII, Sections 3 and 7, Constitution of the Federated States of Micronesia.

Fundamental rights are expressed as negative obligations on government, acting to limit possible government action through State- and national-level legislation that would violate any of the enumerated fundamental rights. Simply put, the Constitution provides guaranteed rights by preventing State action against them. Guarantees include full freedom of expression, peaceful assembly association or petition by preventing any law that denies or impairs these rights.²⁹

Similarly, freedom of religion is guaranteed in the Federated States of Micronesia (including practice and establishment thereof),³⁰ no one can be deprived of life, liberty or property without due process of law – and protection under and by that law is equal for everyone – regardless of sex, race, ancestry, national origin, language or social status.³¹ These Constitutionally guaranteed non-discrimination provisions are laudable; however, these are incomplete. Equal protections are not guaranteed on the grounds of the following: gender/sexual orientation, age, ethnicity, religion or immigration status. While the courts may eventually (or may not) interpret these to be implicit, they are presently not guaranteed under the Constitution.

On procedural rights, no law can be passed with retroactive effect.³² Everyone is guaranteed against unreasonable search, seizure or invasion of privacy – only reasonable where a warrant exists, based on probable cause, supported by affidavit and full description of the place, person or things that will be affected.³³

In criminal cases,³⁴ an accused has the right to be informed of the accusations against them, to a defence counsel, to a speedy public trial, to be confronted by witnesses against them and to compel witnesses to testify on their behalf.³⁵ Likewise, no one can be compelled to provide evidence that could be used against them in a criminal case, or tried twice for the same offence (“double jeopardy”).³⁶

²⁹ Article IV, Section 1, Constitution of the Federated States of Micronesia.

³⁰ Article IV, Section 2, Constitution of the Federated States of Micronesia.

³¹ Article IV, Sections 3 and 4, Constitution of the Federated States of Micronesia.

³² Article IV, Section 11, Constitution of the Federated States of Micronesia. Though the exception of the Constitution itself provides one example to the contrary – see Article III on Citizenship, Section 6, which confers potential beneficial rights regarding eligibility for citizenship by permitting Article III to be applied retroactively.

³³ Article IV, Section 5, Constitution of the Federated States of Micronesia. Additional rights in criminal procedure are established in detail in the Code of the Federated States of Micronesia.

³⁴ These are further fleshed out in the criminal procedure portion of the Code of the Federated States of Micronesia.

³⁵ Article IV, Section 6, Constitution of the Federated States of Micronesia.

³⁶ Article IV, Section 7, Constitution of the Federated States of Micronesia.

At trial, bail cannot be set at excessive levels. Upon conviction, fines cannot be excessive nor can punishments be cruel or unusual. *Habeus corpus* – the ability of a person under arrest to petition the court and secure release unless lawful grounds can be shown for detention is – always available unless suspended in the name of public security in instances of rebellion or invasion.³⁷ The death penalty does not exist in the Federated States of Micronesia, slavery is prohibited and involuntary servitude is only available as a means to punish crimes (such as through work detail in or outside prison).³⁸ Imprisonment cannot be ordered in case of debt.³⁹

C.2. International treaties

International treaties are generally not self-executing in the Federated States of Micronesia. This means once signed, most treaties and relevant provisions are not immediately applicable or implemented in the Federated States of Micronesia. Positive national legislation from Congress is necessary to implement. Some international treaties may require action at the State level to receive and implement. An international treaty can only be ratified by a vote by two thirds of Congress.⁴⁰ In the case of a treaty delegating major powers of government of the Federated States of Micronesia to another government, two-thirds approval is also required by the four State legislatures as well.⁴¹ Some, such as the COFA, may also rely upon a national plebiscite/referendum.

The list of relevant international conventions can be found in Annex III.

C.3. Regional treaties

C.3.1. The Pacific Island Forum

The Federated States of Micronesia joined the Pacific Island Forum in 2001 as an original signatory and signed the revised Charter in October 2005.⁴² Under the revised Charter, the regional organization’s aim is to “stimulate economic growth and enhance political governance and security for the region, through the provision of policy advice; and to strengthen regional cooperation and

³⁷ Article IV, Section 8, Constitution of the Federated States of Micronesia.

³⁸ Article IV, Section 9 and 10, Constitution of the Federated States of Micronesia.

³⁹ Article IV, Section 13, Constitution of the Federated States of Micronesia.

⁴⁰ Article IX, Section 4, Constitution of the Federated States of Micronesia.

⁴¹ Article IX, Section 4, Constitution of the Federated States of Micronesia.

⁴² Agreement Establishing the Pacific Island Forum Secretariat (2000); Agreement Establishing the Pacific Island Forum Secretariat (2005).

integration through coordinating, monitoring and evaluating implementation of Leaders' decisions."⁴³ The regional organization and founding treaty create a forum for regional cooperation and aspirations, including the opportunity to develop and share regionally relevant experiences; however, development cooperation has not been made top priority at this time.⁴⁴

A secondary regional mechanism, the Pacific Island Development Forum, was recently established to focus on development.⁴⁵ It is intended to create a new vehicle for intraregional development cooperation, focusing on strengthening "regional cooperation and integration, including through the pooling of regional resources of governance and the alignment of policies in order to further Forum members' shared goals of economic growth, sustainable development, good governance, and security".⁴⁶ It is worth noting that developed nations, particularly Australia and New Zealand, are excluded from the forum.

C.3.2. The Pacific Island Development Forum

The Pacific Island Development Forum has raised the possibility of labour mobility schemes – necessarily minor in comparison with the full freedom of movement for nationals of the Federated States of Micronesia under the COFA. These regional mechanisms hold real strength in shared interests and pooled governance/political resources – particularly international negotiations and development of a knowledge base for their particular needs and concerns (such as through the Small Island Developing States) – mechanism that entails pooled technical assistance and shared experiences with UN support); however, there are limited opportunities for economic and international development.

Labour mobility schemes would exclude Australia and New Zealand, thus greatly undermining the potential viability and meaningfulness of labour mobility schemes.⁴⁷ Many (if not most) of the countries are involved because economically,

⁴³ Agreement Establishing the Pacific Island Forum Secretariat (2005).

⁴⁴ Analysis of the organization's response and that of individual Member States to the Fijian coup and response by developed nations is beyond the purview of this analysis – but is relevant insofar as it has undermined regional unity and development.

⁴⁵ This agreement occupies a legal "gray" zone since it is based on a memorandum of understanding with the Pacific and may not technically constitute a treaty (Island Secretariat Memorandum of Understanding between the Secretariat of the Pacific Island Forum and Pacific Island Development Forum 2014. Available from http://pacificidf.org/wp-content/uploads/2014/07/SPC_PIDF.pdf).

⁴⁶ Pacific Island Development Forum.

⁴⁷ Generally, labour mobility is reliant upon a shortage of unskilled labour in the receiving country and a surplus of unskilled labour in the sending country – economic supply and demand pressures that make the scheme viable (G.B. Poling, "The Pacific Islands Development Forum: Keep Calm and Carry On", Center for Strategic and International Studies, III (9), 29 August 2013. Available from <http://csis.org/publication/pacific-islands-development-forum-keep-calm-and-carry>).

they face similar problems as (limited) national producers of (limited) national goods. Much of what is produced across the region is not complementary in nature but duplicative, limiting the opportunity for international trade between nations. In that same vein, labour mobility between nations where there is already a surplus of unskilled labour is unlikely to produce many tangible benefits – and may prove a domestic political challenge if foreigners are seen taking local jobs, skilled and unskilled alike.⁴⁸ The pressures of excess (unskilled) labour in the Federated States of Micronesia are already being relieved by free emigration to the United States under the COFA, and it seems unlikely regional mechanisms will or could provide a viable – or comparably attractive – alternative. In this regard, emphasis should be put on maximizing the benefits of the complete labour mobility available under the Compact that enables immediate access to citizens to one of the largest economies in the world. Regional labour mobility may be beneficially politically but will likely prove negligible in potential economic impact.

Where regional coordination could be of greatest benefit may be to help meet the demand for educated and skilled workers among Pacific countries, something which the Federated States of Micronesia may be well-poised to capitalize on with easy (relatively) access to higher level (and quality) education in the United States than most other Pacific island nations. However, the Federated States of Micronesia suffers the safe deficit in skilled/educated labour and must first, or simultaneously, address the issue at home.

C.3.3. The Compact of Free Association

Compacts of Free Association are special agreements signed between the United States and a number of former Trust Territory countries in the Pacific. Currently, there are three such agreements with Palau, Marshall Islands and the Federated States of Micronesia – called the Freely Associated States.

The Compact of Free Association Act of 1985⁴⁹ was the first agreement with the Federated States of Micronesia and was subsequently extended and amended as the Compact of Free Association Amendments Act of 2003.⁵⁰

⁴⁸ Negative sentiments against unskilled and semi-skilled migrants in the Federated States of Micronesia were noted. In 2006, virtual “programs” against skilled and unskilled Chinese businesses and labourers in the Solomon Islands and Tonga, in 2009 in Papua New Guinea, and historically in Indonesia, provide concrete examples of how such resentment in practice can be manifested in the extreme regionally.

⁴⁹ Compact of Free Association Act of 1985, US Public Law 99–239.

⁵⁰ Compact of Free Association Amendments Act of 2003, US Public Law 108–188 (“2003 Compact”). The 2003 Compact overrides and amended many portions of the original 1985 Compact and is therefore referenced directly and authoritatively, rather than citing both Compacts on the same provisions.

Seven subsidiary agreements accompany the Compact, fleshing out a range of issues in the detail necessary for implementation.⁵¹ For the Federated States of Micronesia, the Compact of Free Association (“The Compact”) plays an immensely important role nationally and deserves special attention.

The Compact, as an agreement between nations, may be considered an international treaty; however, they were passed in the form of directly executed national laws in the United States and Federated States of Micronesia (following a national plebiscite) – public laws enacted by Congress representing a joint congressional-executive agreement, rather than stand-alone international treaty documents.⁵²

The Compact’s provisions cover Governmental Relations, Economic Relations, and Security and Defence Relations;⁵³ however, the most relevant Compact provisions under this study include the following: (a) specific immigration provisions/permissions for citizens of the Federated States in the United States; (b) annual grants/funds transfers to the Federated States of Micronesia from the United States; (c) establishment and maintenance of a trust fund for the Federated States of Micronesia; (d) military enlistment for citizens of the Federated States of Micronesia; (e) and reporting requirements under the Compact.

Immigration permissions

One of the most important benefits under the Compact is the ability of citizens of the Federated States of Micronesia and their immediate relatives (who are also citizens of the country) to freely travel, relocate, reside and work in the United States and her territories.⁵⁴ Immediate relatives of any citizen of

⁵¹ These include hundreds more pages of legal text as essential appendices, including: Appendix I: Federal Programs and Services Agreement; Appendix II: Law Enforcement Agreement; Appendix III: Labor Agreement in Implementation of Section 175(b); Appendix IV: Fiscal Procedures Agreement; Appendix V: Trust Fund Agreement; Appendix VI: Military Use and Operating Rights Agreement; Appendix VII: Status of Forces Agreement.

⁵² As a US law, this also means the United States retains an advantage in interpreting and administering the Compact since the contents and style is more familiar to US-side lawyers – the complexity and length of the Compact. The Compact agreements with the Federated States of Micronesia deal with the Marshall Islands in the same law. Analysis of differential treatment of the two nations under the Compacts is linked to the legacy and historical relations with the United States – such comparison is beyond the purview of this study.

⁵³ The section dealing with Security and Defence Relations and relevant permissions for US forces and exclusion of other nations’ forces, while perhaps important for the Federated States of Micronesia’s role in global geopolitical power struggle, and more so for the United States’ continued military and naval dominance (and relevance) in the Pacific region, further analysis is beyond the purview of this study.

⁵⁴ Immediate relatives – defined as spouse, or unmarried son or unmarried daughter less than 21 years of age (if not citizens themselves) must be naturalized citizens, having spent at least 5 years in the Federated States of Micronesia after naturalizing and hold residency. Title I Governmental Relations, Article IV Immigration, Section 141, (a) (1–3); definition at (e) (5), 2003 Compact. Likewise, US citizens receive equivalent treatment in the Federated States of Micronesia under a “no-less favorable” clause – Section 142, 2003 Compact.

the Federated States of Micronesia serving on active duty in any branch of the US Armed Forces or in the active US reserves will also benefit, whether that relative is nationalized in the Federated States of Micronesia or not.⁵⁵ The only requisites for citizens of the Federated States of Micronesia to legally obtain work in the United States are an unexpired passport from the Federated States of Micronesia and unexpired US immigration documentation proving admission under the Compact.⁵⁶

Despite the permissive immigration regime for citizens of the Federated States of Micronesia, there are limitations. In particular, grounds for inadmissibility, exclusion and deportation (and legal defences against) established in the Immigration and Nationality Act still apply.⁵⁷ The Compact also serves to legally alter the terms of one section of the US Immigration and Nationality Act, specifically enabling deportation of anyone admitted under the Compact who cannot show (or does not have) sufficient means of support in the United States.⁵⁸

Citizens of the Federated States of Micronesia who take advantage of the Compact immigration permissions do not become US citizens, regardless of how long they spend in the United States; citizens of the Federated States of Micronesia may have the right to establish residence indefinitely; however, it does not count as part of any process of naturalization towards obtaining US citizenship. Citizens of the Federated States of Micronesia are free to apply for US citizenship through standard legal means, but the Compact does not grant them any favourable treatment in this regard.⁵⁹

In practice, this means once admitted to the United States under the Compact, citizens of the Federated States of Micronesia exercise full freedom of movement inside the United States (and territories) and are free to seek and accept work anywhere in the United States (and territories) on a virtually indefinite basis, subject only to the above-noted limitations. Though accurate

⁵⁵ Title I, Article IV, Section 141 (a) (5), 2003 Compact.

⁵⁶ Title I, Article IV, Section 141 (d), 2003 Compact.

⁵⁷ Per section 237(a)(1–8) of the Immigration and Nationality Act, those who do (did) not meet inadmissibility provisions at the time of entry, guilty of criminality, failed to register and/or falsified documents, present risk to security and related grounds, have become a ward of the State (such as abject poverty), engaged in unlawful voting are all considered to be “classes of deportable aliens”, meaning they shall be removed upon order of the Attorney General – though an exception if made for victims of domestic violence.

⁵⁸ Section 237(a)(5) of the Immigration and Nationality Act originally reads: “(5) *Public charge*: Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable”, and as amended by Title I, Article IV, Section 141(f)(1) of the 2003 Compact “any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable”.

⁵⁹ Title I, Article IV, Section 141 (h), 2003 Compact.

data and precise numbers of citizens of the Federated States of Micronesia taking advantage of this are challenging to obtain, anecdotally, it is clear immigration permissions under the Compact are being taken advantage of.⁶⁰

Military recruitment provisions and citizens of the Federated States of Micronesia

Apart from immigration permissions, under the original Compact, citizens of the Federated States of Micronesia gained the ability to volunteer and serve in the US Armed Forces – though they cannot be drafted involuntarily into service unless they establish permanent residence in the United States (through a process of naturalization).⁶¹

Under the amended Compact, this was expanded to permit administration of the Armed Services Vocational Aptitude Battery Student Testing Program in secondary schools in the Federated States of Micronesia⁶² – in addition to the above-noted immigration permissions, namely that any immediate relative of a citizen of the Federated States of Micronesia serving in active duty in any branch of the US Armed Forces/active US reserves can benefit under the Compact, even if not a citizen of the Federated States of Micronesia.⁶³ With the challenging and unstable national labour market in the Federated States of Micronesia, combined with the attractiveness of a sense of purpose, history and duty combined with the promise of a guaranteed monthly salary and opportunities for subsidized higher education – it is unsurprising that the Federated States of Micronesia is ahead of all US States in military recruiting on a per capita basis.⁶⁴ While such recruitment practice is not without detractors, the potential economic impact of recruits sending back portions of their guaranteed monthly salaries to the Federated States of Micronesia as remittances is not controversial.

C.4. Code of the Federated States of Micronesia (2014): The national legal framework

After its colonial past, the Federated States of Micronesia was governed by the United States under the Trust Territory of the Pacific Islands Code, a comprehensive compilation of public, criminal and civil laws, until achieving

⁶⁰ See elsewhere in the Migration Profile.

⁶¹ Title III, Article IV, Section 341, 1986 Compact.

⁶² SEC. 104, (k) “Participation by Secondary Schools in the Armed Services”, 2003 Compact (48 USC 1921c).

⁶³ Title I, Article IV, Section 141 (a) (5), 2003 Compact.

⁶⁴ T. Azios, “Uncle Sam wants Micronesians for US military”, The Christian Science Monitor, 5 May 2010. Available from www.csmonitor.com/World/Asia-Pacific/2010/0505/Uncle-Sam-wants-Micronesians-for-US-military

full independence. Upon passing the Constitution, the Federated States of Micronesia retained a transitional provision, but began to develop its own national laws using the Trust Territory of the Pacific Islands Code as the base, gradually repealing it through each successive national law passed.⁶⁵ Subsequent revisions in 1997 saw the Trust Territory of the Pacific Islands Code replaced and revised by the Code of the Federated States of Micronesia (“The Code”) to include primarily laws with national import. Further revision saw laws falling within jurisdiction of the Federated States of Micronesia’s States under the Constitution removed.⁶⁶

Effectively, the Code is a living omnibus legal document that includes implementing provisions of the Constitution and organizes the system of governance, as well as all civil and criminal provisions in law; with the common law underpinnings, provisions are further defined and refined through case law and jurisprudence.

Each time Congress enacts a new law, that law becomes part of the Code through amendment – including laws to implement international treaties. In practice, reference to a specific law in the Federated States of Micronesia means reference to the specific title and/or chapter of the Code through which it is enacted. The Code has been updated three times since inception – 1982 (the initial code), 1997 and last done in 2014; the 2014 version is the most current and complete, now hosted with case annotations on the Supreme Court of the Federated States of Micronesia’s website, making it the most authoritative version at the time of writing.⁶⁷ Subsequent analysis is based on the 2014 version.

C.4.1. Immigration Act and Regulations

This analysis is a combined review of the Immigration Act and related regulations, providing a holistic overview of the immigration system that governs the entrance of aliens into the Federated States of Micronesia.

Entry permits

Except for a limited category of exemptions, all aliens, vessels and aircraft must have an appropriate entry permit to enter and remain in the Federated

⁶⁵ “A statute of the Trust Territory continues in effect except to the extent it is inconsistent with this Constitution, or is amended or repealed.” Article XV, Section 1, Constitution of the Federated States of Micronesia.

⁶⁶ Overview of the Code’s evolution courtesy of Tina Takashy, *Federated States of Micronesia: Country Report On Human Rights*. Available from www.upf.pf/IMG/pdf/08-DH-Federated-States-of-Micronesia.pdf

⁶⁷ During the site visit, it became clear that information and laws are not always made available in a timely or direct fashion to the general public.

States of Micronesia.⁶⁸ The authority to receive applications and issue such permits is vested in the President but can be, and is currently, delegated through the Title 50 Immigration Regulations (“The Regulations”) to the Secretary of the Department of Justice and the Chief of the Division of Immigration and Labour of the Department of Justice.⁶⁹

Entry requirements

Aliens, foreign vessels and aircraft may only enter the Federated States of Micronesia at designated ports of entry⁷⁰ and individuals must present a valid passport (valid for 120 days beyond the date of entry into the Federated States of Micronesia), a completed Immigration and Departure Control Record Form 5004, a valid entry permit (if required – discussed below), and valid international certificate of vaccination (if required).⁷¹

C.4.2. Visitors

In the case of persons visiting for 30 days or less, an entry permit is not required; such a stay may be extended up to an additional 60 days pending a written request with explanation.⁷²

Longer-term visitors may apply for a “visitor’s permit” for stays more than 90 days, but less than one year, during which time the recipient may undertake

⁶⁸ Title 50, Chapter 1, Section 102, Code of the Federated States of Micronesia, 2014 version, and S 2.3 Title 50 FSM Immigration Regulations – passed under authority of Title 50, Chapter 1, Section 111, Code of the Federated States of Micronesia, 2014 version.

⁶⁹ Title 50, Chapter 1, Section 105, Section 106, Code of the Federated States of Micronesia, 2014 version and 1.2 Title 50 FSM Immigration Regulations. The purpose of the regulations is to practically implement provisions of the FSM Immigration Act, thereby controlling the entry, presence and departure of non-citizens, foreign vessels and foreign aircraft in the Federated States of Micronesia (1.3 Title 50 FSM Immigration Regulations).

⁷⁰ 2.1 Title 50 FSM Immigration Regulations. At the time of writing, the only official ports of entry designated and authorized to issue entry permits are as follows: (a) Yap: Tomil Harbour, Yap International Airport, Ulithi Anchorage, Ulithi Airstrip, Woleai Atoll, Woleai Anchorage, Woleai Airstrip and Satawal; (b) Chuuk: Moen anchorage and Chuuk International Airport in Weno; Satowan Anchorage, Satowan Airstrip and Ta Airstrip in Satowan Atoll; Polle Anchorage Area and Tolensom Anchorage in Faichuk Piannu Harbour; and Polowat Anchorage Area; Pollap Anchorage Area; Hauk Airstrip; and Onoun Airstrip in Northwest Harbour; (c) Pohnpei: Mesenieng Harbour, Pohnpei International Airport, Kapingamarangi Anchorage, Kapingamarangi Airstrip, Temwen Harbour, Sapwuahfik Airstrip and Oroluk Airstrip; and (d) Kosrae: Lelu Harbour, Okat Harbour and Kosrae International Airport. Additional ports of entry may be designated in the future (Title 18, Chapter 2, S. 202, 203 and 204).

⁷¹ 2.2, ad, Title 50 FSM Immigration Regulations. It should be noted that individual States that are in control of airports and seaport via State port authorities have the authority to collect information from persons passing through their facilities.

⁷² Short-term contract employment is permitted for visitors; a copy of any employment contract must be provided to the Immigration Division. (Title 50, Chapter 1, Section 103 (1), Code of the Federated States of Micronesia, 2014 version and 3.1, Title 50 FSM Immigration Regulations).

short-term contracts/employment, with the actual duration of the visitor's permit reflecting the time needed to complete the contract. The normal application process for entry permits (noted below) applies.⁷³ For US, Marshallese and Palau citizens, the extension permit may run for up to one year (365 days).⁷⁴

All visitors are required to show proof of onward travel (such as a plane ticket) or otherwise the ability to leave the Federated States of Micronesia at the end of their permitted stay; those who are unable to show such proof may be denied entry, excluded or deported. This requirement may be waived at discretion of the chief (or designee), though an onward ticket must be purchased immediately.⁷⁵

Entry permits

The Immigration Act and accompanying Regulations establish specific categories of entry permits. Non-citizens must apply and pay for entry permits prior to entry and must present them when entering the country.⁷⁶ Applications for entry permits must include police clearance from the last place where an applicant lived for six months (showing no convictions for a felony or "crime against moral turpitude") and a certificate of good health.⁷⁷

These include a Student's Entry Permit,⁷⁸ a Foreign Official's Entry Permit (privileged persons),⁷⁹ a Salesperson's Entry Permit,⁸⁰ an Alien Worker's Entry Permit (refined in the Regulations 4.1 Government Workers and 4.2. Non-government workers),⁸¹ a Foreign Investor's Permit⁸² Expatriate Worker

⁷³ A (long-term) visitor's permit, Section 103 (2), 3.2 Title 50 FSM Immigration Regulations.

⁷⁴ Title 50, Chapter 1, Section 103 (1) Code of the Federated States of Micronesia, 2014 version.

⁷⁵ 3.3 Title 50 FSM Immigration Regulations.

⁷⁶ 2.5 Title 50 FSM Immigration Regulations.

⁷⁷ 2.6 Title 50 FSM Immigration Regulations.

⁷⁸ Issued for a specific duration in line with enrolment. Title 50, Chapter 1, Section 103 (3) Code of the Federated States of Micronesia, 2014 version and 7.3 Title 50 FSM Immigration Regulations.

⁷⁹ These are issued to officials, employees or contractual personnel (including consultants and household workers in personnel households) of a foreign government, regional organization or international organization. Title 50, Chapter 1, Section 103 (4), Code of the Federated States of Micronesia, 2014 version and 7.4 Title 50 FSM Immigration Regulations.

⁸⁰ Issued to salespersons taking orders or filling orders without establishing a residence or place of business within the Federated States of Micronesia – it cannot exceed six months. Title 50, Chapter 1, Section 103 (5), Code of the Federated States of Micronesia, 2014 version and 5.4 Title 50 FSM Immigration Regulations.

⁸¹ For all non-citizens entering the Federated States of Micronesia, in compliance with all national employment laws, issued in relation to the period of employment. Title 50, Chapter 1, Section 103 (6), Code of the Federated States of Micronesia, 2014 version.

⁸² Issued in accordance with Title 32 of the Code of the Federated States of Micronesia, particularly foreign investment that essentially covers the establishment and conduct of business by non-citizens in the Federated States of Micronesia. It is contingent upon the Foreign Investment Permit issued under Subchapter II and III. Title 50, Chapter 1, Section 103 (7), Code of the Federated States of Micronesia, 2014 version and 5.1 Title 50 FSM Immigration Regulations.

Authorization Permit,⁸³ Researcher’s Entry Permit,⁸⁴ Missionary’s Entry Permit,⁸⁵ a Spouse’s Entry Permit,⁸⁶ a Dependent’s Entry Permit,⁸⁷ and Accompanying Family Permits (covering only spouse and unmarried children) for anyone entering with one of these permits (except for a dependant’s permit).⁸⁸ Children of US citizens who are not themselves US citizens may apply for an entry permit valid for one year.⁸⁹

All those receiving entry permits must comply with the specific terms. To legally engage in activities not covered by the entry permit issued, a change in status is required and must be requested.⁹⁰ All permits are limited to a maximum of one year but renewable – except in the case of renewing a spouse’s entry permit, which can only be issued for up to five years total.⁹¹ Applications are all subject to fees established in the regulations.⁹²

Change of status

According to the Immigration Law, those who enter the Federated States of Micronesia as a visitor (short-term or long-term) cannot change their immigration status while they are in the country, which means that they cannot

⁸³ This permit is contingent upon the Foreign Investor’s Permit (5.2 Title 50 FSM Immigration Regulations).

⁸⁴ Issued for research in fields deemed in the Federated States of Micronesia’s best interest; must be applied for in advance, including intended place of stay prior to admission. Conditions as deemed necessary may be attached and all is subject to review by the Historic Preservation Officer in addition to the Division (Title 50, Chapter 1, Section 103 (8), Code of the Federated States of Micronesia, 2014 version and 7.1 Title 50 FSM Immigration Regulations).

⁸⁵ Issued only to duly ordained, licensed and certified minister/clergyman (Title 50, Chapter 1, Section 103 (9), Code of the Federated States of Micronesia, 2014 version and 7.2 Title 50 FSM Immigration Regulations).

⁸⁶ Issued to a lawful spouse; a spouse permit holder can legally obtain paid work in the Federated States of Micronesia, provided he/she has been a resident for five years prior to starting the job, and/or married to a citizen of the Federated States of Micronesia for five years’ prior. The permit may be revoked or denied if the parties are divorced, irreconcilably separated or the citizen-spouse is deceased – but no action to revoke or deny upon death of the citizen-spouse will be undertaken for at least six months after the death (Title 50, Chapter 1, Section 103 (10), Code of the Federated States of Micronesia, 2014 version and 6.1 Title 50 FSM Immigration Regulations).

⁸⁷ Title 50, Chapter 1, Section 103 (11), Code of the Federated States of Micronesia, 2014 version and 6.2 Title 50 FSM Immigration Regulations.

⁸⁸ Dependent’s Entry Permit may be issued to unmarried children under the age of 18 – subject to protective provisions in Ss. (10); the spouse/unmarried child permit is linked to the validity and renewal of the principal’s entry permit (Title 50, Chapter 1, Section 103 (12), Code of the Federated States of Micronesia, 2014 version).

⁸⁹ 6.3 Title 50 FSM Immigration Regulations.

⁹⁰ 2.4 Title 50 FSM Immigration Regulations.

⁹¹ Title 50, Chapter 1, Section 104 (1), Code of the Federated States of Micronesia, 2014 version and 2.8 Title 50 FSM Immigration Regulations.

⁹² At the time of writing, the fees were as follows: Visitor – Short-term 90 days or less: No fee; Visitor Permit – Long-term: USD 25; Government worker USD 5; Non-government worker USD 50; Foreign investor USD 100; EWA Permit USD 100; Salesperson USD 100; Spouse or dependent USD 10; Missionary USD 10; Researcher USD 25; Student USD 5. Authority from Title 50, Chapter 1, Section 112, Code of the Federated States of Micronesia, 2014 version and fees established in Part 10 Title 50 FSM Immigration Regulations.

apply for an entry permit while inside the Federated States of Micronesia and must leave the country to do so.⁹³ For those entering under an entry permit (listed above), their immigration status can be changed, but this incurs costs – namely the fees associated with the new entry permit and an additional fee of USD 1,000 (10 times the cost of the most expensive entry permit);⁹⁴ these provisions are absolute and cannot be waived, which means that the change fee must be applied in each and every instance.⁹⁵ Those who leave while holding a valid – or expired – entry permit and apply for a new entry permit under a different class from outside the Federated States of Micronesia must still pay the change in status fee of USD 1,000, unless they can show they do not “reside” in the Federated States of Micronesia.⁹⁶ Non-resident-non-citizens who entered the Federated States of Micronesia as a short-term visitor are exempt from paying the change in status fee.⁹⁷

C.4.3. Vessels

All vessels (aircraft and boats/ships) must likewise obtain an entry permit.⁹⁸ All are subject to immigration inspection, examination of the relevant Federated States of Micronesia immigration documents for each passenger, and if determined eligible, receive proof of the date and place of entry.⁹⁹

Carriers bringing people to the Federated States of Micronesia are responsible for ensuring that passengers have the required documentation for legal entry to the country;¹⁰⁰ anyone brought who cannot present the requisite immigration/entry documents will be denied entry and either returned to the aircraft or confined to their ship.¹⁰¹ Crew members may be issued shore passes while a vessel is in port – and no vessel or aircraft can leave the Federated States of Micronesia without all passengers and crew who came with the craft, unless proven any absent persons have left the country by other means.¹⁰²

⁹³ Title 50, Chapter 1, Section 104 (3), Code of the Federated States of Micronesia, 2014 version.

⁹⁴ 10.1, Title 50 FSM Immigration Regulations.

⁹⁵ Title 50, Chapter 1, Section 104 (3) (b), (c) and (4), Code of the Federated States of Micronesia, 2014 version.

⁹⁶ Defined as presence in the Federated States of Micronesia for 180 days out of the last 365 days, having ties, such as home, car, bank accounts and personal property (2.9 Title 50 FSM Immigration Regulations).

⁹⁷ 2.9 (d) Title 50 FSM Immigration Regulations.

⁹⁸ 9.1 (a) Title 50 FSM Immigration Regulations.

⁹⁹ Title 50, Chapter 1, Section 108, Code of the Federated States of Micronesia, 2014 version.

¹⁰⁰ Carriers includes all vessels and aircraft, as well as all “commercial vessels”, which means any seagoing vessel whose primary use is the commercial transportation of passengers or freight, fishing, dredging or other commercial use (1.4 b. Title 50 FSM Immigration Regulations).

¹⁰¹ Title 50, Chapter 1, Section 109, Code of the Federated States of Micronesia, 2014 version.

¹⁰² 9.1 (c) and 9.4 Title 50 FSM Immigration Regulations.

Non-commercial vessels in distress

Vessels entering the Federated States of Micronesia in distress must still complete a request for an entry permit, describing the nature of distress and how it will be remedied. If approved, such a vessel in distress may be issued a 30-day Non-Commercial Vessel Entry Permit – but must still meet applicable health/quarantine guidelines.¹⁰³ A 60-day extension is possible if the situation of distress has not been remedied within the first 30 days.¹⁰⁴ Upon expiration of the Non-Commercial Vessel Entry Permit (extended or not), all crew and passengers who arrived on the distressed vessel must leave the Federated States of Micronesia, regardless of whether the vessels remains in the country.

The vessel may be permitted an additional 90 days in the country, provided a responsible trustee, legally authorized to remain in the Federated States of Micronesia, is available and willing to take charge of and care for the vessel.¹⁰⁵ At the end of the 90 days, if the vessel remains in the Federated States of Micronesia, it is forfeited – though an additional 30-day extension may be permitted in case of distress or weather.¹⁰⁶

Notwithstanding the above, all of these requirements may be changed or waived entirely to accommodate emergency situations and humanitarian needs.¹⁰⁷

C.4.4. Revocation, exclusion, deportation and non-compliance

Based on a set of enumerated grounds, actual entry and/or entry permits can be denied, existing permits can be revoked, renewal can be refused and/or a non-citizen can be deported.¹⁰⁸ Most relevant among these grounds include the following: (a) willfully providing false, incomplete or misleading information when applying for a permit; (b) entering by using a false/counterfeit permit; (c) suffering from a serious mental illness or chronic alcoholism, drug addiction (specifically narcotics); (d) carrying a serious communicable disease; (e) being convicted for a serious crime (felony) or a crime involving “moral turpitude” in the jurisdiction where committed, determination that entry or presence of the applicant would not be “in the best interest” of the Government of the Federated

¹⁰³ 9.5 (a) Title 50 FSM Immigration Regulations.

¹⁰⁴ Ibid.

¹⁰⁵ 9.5 (b) Title 50 FSM Immigration Regulations.

¹⁰⁶ Ibid.

¹⁰⁷ 9.6 Title 50 FSM Immigration Regulations.

¹⁰⁸ Title 50, Chapter 1, Section 107 (1), Code of the Federated States of Micronesia, 2014 version.

States of Micronesia.¹⁰⁹ None of these restrictions are applied to “privileged persons” (such as diplomats and employees of international organizations); however, they can be declared *persona non grata*, stripped of such privileges and deported from the Federated States of Micronesia.¹¹⁰

Unlawful entry, the attempt to unlawfully enter, or willfully remaining unlawfully after the expiration or revocation of entry authority may, upon conviction, result in a prison sentence up to two years and a fine of up to USD 10,000, or both (in addition to any separate citations and fees under the accompanying Regulations).¹¹¹ Being a criminal process, all relevant protections, rights and responsibilities attaching to both an accused and the State regarding criminal procedure apply.¹¹² In lieu of, or in addition to penalties, the Department of Justice or Department of Immigration and Labour can apply to the court to have the person deported.¹¹³ Additional penalties can be levied through citation (such as fines).¹¹⁴

C.4.5. Citizenship and Nationality Law

Citizenship in the Federated States of Micronesia follows the principle of *jus sanguinis* (bloodline, born of parents from the Federated States of Micronesia), rather than *jus soli* (by birth in the territory). The Constitution provides for citizenship in a number of ways. First, any person who was a citizen of the Pacific Trust Territory prior to enactment of the Constitution and living in a district in which the Constitution is ratified is deemed a citizen and a national of the FSM.¹¹⁵ Second, anyone born to parents who are FSM citizens – whether both parents are citizens of the Federated States of Micronesia, or only one is – is considered a citizen and national of the Federated States of Micronesia.¹¹⁶ Third, dual citizenship is not permitted – citizens of the Federated States of Micronesia recognized as citizens of another nation must choose to actively renounce their

¹⁰⁹ Likewise, and extremely broad concept that grants considerable discretion, and potential room for discriminatory treatment. See Title 50, Chapter 1, Section 107 (1) (a), (f), (g), (h), (i), (j) and (k) – and 2.12 Title 50 FSM Immigration Regulations.

¹¹⁰ Title 50, Chapter 1, Section 604, Code of the Federated States of Micronesia, 2014 version.

¹¹¹ Title 50, Chapter 1, Section 114 (5), Code of the Federated States of Micronesia, 2014 version.

¹¹² See Title 12 generally, in particular Chapter 4 on Rights of Defendants, Code of the Federated States of Micronesia, 2014 version.

¹¹³ Title 50, Chapter 1, Section 114 (1), Code of the Federated States of Micronesia, 2014 version.

¹¹⁴ Citations: Engaging in activities not authorized by entry permit: USD 1,000; Overstay of entry permit prior to renewal (per day overstayed) USD 100; Illegal entry or attempt to enter USD 1,000; Stowaway (fine imposed on carrier); USD 1,000; Carrier presentation of non-citizen without proper documentation (fine imposed on carrier) USD 500; Title 50, Chapter 1, Section 114 (5), Code of the Federated States of Micronesia, 2014 version and 11.1 Title 50 FSM Immigration Regulations.

¹¹⁵ Article III, Section 1, Constitution of the Federated States of Micronesia.

¹¹⁶ Article III, Section 2, Constitution of the Federated States of Micronesia.

other citizenship, or retain it, within three years of their eighteenth birthday (or within three years of enactment of the Constitution, whichever was sooner); failure to renounce foreign citizenship means they become a “national”¹¹⁷ of the Federated States of Micronesia rather than a citizen.¹¹⁸

There are two other provisions for obtaining citizenship in the Federated States of Micronesia that are largely historical. Trust Territory citizens who became US citizens under the terms of the Covenant to Establish a Commonwealth of Northern Mariana Islands could become a citizen of the Federated States of Micronesia by applying to a competent court within six months of becoming a US national; likewise, a citizen of the Trust Territory living in a district that did not ratify the Constitution could become a citizen of the Federated States of Micronesia by applying to a competent court within six months of the Constitution being enacted, or within six months of their eighteenth birthday (whichever was later).¹¹⁹

Naturalization, the acquisition of citizenship by a foreigner, is technically possible, but extremely difficult and unlikely to occur in practice. It is possible for both foreigners and nationals of the Federated States of Micronesia to obtain citizenship pursuant to Regulations and provided they renounce any other citizenship(s) they may hold.¹²⁰ Eligibility for naturalization under the Regulations requires the following: (a) legal residency in the Federated States of Micronesia; (b) actual physical presence in the Federated States of Micronesia for at least five years prior to application; (c) the applicant must be of “good moral character”; and (d) the person must pass a competency test (which includes demonstrated understanding of any of the Federated States of Micronesia’s four indigenous languages, knowledge and understanding of the history, principles of Federated States of Micronesia’s government, culture and tradition, in addition to “good moral character”).¹²¹ For foreigners, that is, those who are not children of a citizen or a national, naturalization requires Congress’ express recommendation by bill (such as an act of Congress), and such bill only recommends naturalization to the President, rather than ensures it; even with a bill from Congress, the

¹¹⁷ While not a full citizen, the person in question does not become Stateless and obtains a battery of rights similar to a citizen of the Federated States of Micronesia, but limited in a number of ways.

¹¹⁸ Article III, Section 3, Constitution of the Federated States of Micronesia.

¹¹⁹ Article III, Sections 4 and 5, Constitution of the Federated States of Micronesia. Historically, constitutional amendment was proposed to permit dual citizenship; however, the amendment failed to receive the necessary support. See: National elections maintains incumbents and denies changes to Constitution, Government of the Federated States of Micronesia, 14 March 2005. Available from www.fsmgov.org/press/pr031405.htm

¹²⁰ See: Regulations to Implement the Citizenship and Naturalization Act. www.fsmpio.fm/announcements/Naturalization_Regulation_Immigration.pdf

¹²¹ Part III of Regulations to Implement the Citizenship and Naturalization Act – also reflected in Title 7, Chapter 2, Section 204, Code of the Federated States of Micronesia, 2014 version.

President retains discretion as the legal text uses the words “may naturalize” and not “shall naturalize”.¹²²

C.5. The Trafficking in Persons (and Smuggling of Migrants) Act of 2012

In 2011, the Federated States of Micronesia was downgraded to Tier 3 of the US State Department’s annual Trafficking in Persons Report (relating to activities in 2010). Tier 3 placement means the risk of non-humanitarian, non-trade-related foreign assistance being halted or withdrawn, funding for government employees participation in educational and cultural exchange programmes would be denied, and US opposition to any assistance from international financial institutions.¹²³ This represented a serious threat for the Federated States of Micronesia since it is not immediately clear whether this could/would have impacted Compact funding.

In 2011, the Federated States of Micronesia acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and Congress passed legislation to legally receive and implement the Protocol in national law. It was signed into law on 16 March 2012.¹²⁴ The Federated States of Micronesia has now achieved Tier 2 in the 2014 and 2015 report – recognizing progress on prosecution and prevention, but noting continuing challenges in the area of protection.¹²⁵

C.5.1. Human trafficking

While the Trafficking in Persons Act of 2012 deals with trafficking in persons, it also deals with smuggling of migrants. The Federated States of Micronesia is not a party to the Protocol against the Smuggling of Migrants by Land, Sea and Air, but included human smuggling in the Trafficking in Persons Act of 2012.

¹²² Title 7, Chapter 2, Section 204 (2), Code of the Federated States of Micronesia, 2014 version.

¹²³ Full explanation: “Penalties for Tier 3 Countries: Pursuant to the TVPA [Trafficking Victims Protection Act], governments of countries on Tier 3 may be subject to certain sanctions, whereby the US government may withhold or withdraw nonhumanitarian, non-trade-related foreign assistance. In addition, countries on Tier 3 may not receive funding for government employees’ participation in educational and cultural exchange programs. Consistent with the TVPA, governments subject to sanctions would also face US opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions such as the International Monetary Fund (IMF) and the World Bank.” www.state.gov/j/tip/rls/tiprpt/2011/164221.htm

¹²⁴ Title 11, Chapter 6, Subchapter II, Code of the Federated States of Micronesia, 2014 version.

¹²⁵ www.state.gov/documents/organization/226847.pdf

The law establishes definitions of the terms used therein. The definitions of “child” (any person below the age of 18 at the time an offence is committed) and the definitions of “exploitation”, “forced labour or services” and “practices similar to slavery” largely adhere to those established in Trafficking Protocol definitions.¹²⁶

The law establishes the crimes of human trafficking (sentence of up to 15 years prison and a fine between USD 5,000 to USD 25,000 or both), trafficking in children (involving a victim under the age of 18 – sentence of up to 30 years prison and a fine between USD 5,000 to USD 50,000 or both) and aggravated human trafficking (involving any number of 13 enumerated aggravating factors – sentence of up to 30 years prison and a fine between USD 5,000 to USD 50,000 or both), offences matching those in the Trafficking Protocol.¹²⁷

An additional offence of exploiting a trafficked person is also in the law, criminalizing profiting from engaging, participating in or profiting from the exploitation of a trafficked person with knowledge that they are trafficking (carrying a sentence of up to 10 years in prison and a fine of USD 5,000 to USD 20,000 or both).¹²⁸

In line with the Trafficking Protocol, victims of human trafficking are afforded certain rights and protections under the Trafficking in Persons Act. These include immunity from criminal process for the act of human trafficking, entrance into the receiving country, unlawful residence and procurement or possession of fraudulent travel/identity documents.¹²⁹

Additionally, the law foresees the establishment of guidelines and procedures to provide assistance to victims of trafficking, as well as witnesses in trafficking in persons cases. These include, but are not limited to the following: (a) adequate protections if safety is at risk (to protect against intimidation or retaliation); (b) opportunities to present views, needs, interests and concerns throughout any legal proceedings; (c) special treatment and appointment of a legal guardian for children with the best interests of the child at heart; (d) when a victim (but not witness) is a national of the Federated States of Micronesia

¹²⁶ Title 11, Chapter 6, Subchapter II, Section 612, Code of the Federated States of Micronesia, 2014 version.

¹²⁷ “A person who knowingly recruits, transports, transfers, harbors or receives another person for the purpose of exploitation, by threat, use of force, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person shall be guilty of human trafficking.” (Title 11, Chapter 6, Subchapter II, Section 615, Code of the Federated States of Micronesia, 2014 version – and sections 616, 617).

¹²⁸ Title 11, Chapter 6, Subchapter II, Section 613, Code of the Federated States of Micronesia, 2014 version.

¹²⁹ Title 11, Chapter 6, Subchapter II, Section 620 (1), Code of the Federated States of Micronesia, 2014 version.

(not necessarily citizen) and assistance to return to the country will be provided without undue delay; (e) where the victim is not a national of the Federated States of Micronesia; (f) support for return to their home country or country of legal residence (including arranging travel documentation); and (g) providing clear information to all victims on the nature of protection, assistance and support they are entitled to under the law, and which may be available through non-governmental organizations, as well as information on any legal proceedings – all in a language the victim understands.¹³⁰

C.5.2. Human smuggling

The offence of human smuggling is defined in the law as anyone who, recklessly or knowingly, arranges/assists the illegal entry of another person into a country of which the person is not a citizen and has no legal right to enter.¹³¹ This is not limited to those seeking to enter the Federated States of Micronesia specifically, nor does the smuggling attempt have to be successful, which means that prosecution can occur in cases where human smugglers merely stop in or transit the Federated States of Micronesia. It carries a sentence of up to 10 years' prison and fine of USD 5,000 to USD 20,000 or both.

Aggravated smuggling applies in cases where the life or safety of a smuggled person is endangered – or likely to be endangered – potentially a very broad scope of application, considering the dangerous means and questionable seaworthiness of vessels often used by human smugglers.¹³²

There are no provisions for the protection and assistance to smuggled persons in the law. This includes a lack of provisions relating to immigration status, temporary holding facilities, medical care, food, hygiene and others despite the implicit recognition in the law that victims of aggravated human smuggling's lives may have been in danger and the potentially seriously negative conditions endured during their journey.

C.5.3. Applicability to both human trafficking and human smuggling

The scope of application for the law, relating to both human smuggling and human trafficking, includes both domestic and extraterritorial application in the following instances: (a) if the Federated States of Micronesia is the receiving

¹³⁰ Title 11, Chapter 6, Subchapter II, Section 14 (2), Code of the Federated States of Micronesia, 2014 version.

¹³¹ Title 11, Chapter 6, Subchapter II, Section 613, Code of the Federated States of Micronesia, 2014 version.

¹³² Title 11, Chapter 6, Subchapter II, Section 614, Code of the Federated States of Micronesia, 2014 version.

country; (b) if exploitation occurs in the Federated States of Micronesia; (c) if any part of an offence (act or conduct) is undertaken within the Federated States of Micronesia; (d) if committed by a national of the Federated States of Micronesia or any other citizen resident in the country; or (e) if committed against a national of the Federated States of Micronesia.¹³³

A trafficking victim's consent or the consent of a smuggled human provides no legal defence under the law.¹³⁴ For trafficking victims, consent never provides a defence by virtue of the means used to commit the crime (namely the threat, use of force, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person). Any consent would necessarily be considered vitiated if the prohibited means were employed. For someone involved in human smuggling, consent is also not relevant since often such actions are usually paid services (which went wrong for victims of aggravated human smuggling).

It is also a crime to make, obtain, give, sell or possess fraudulent travel/identity documents or supporting papers if used to facilitate human smuggling or human trafficking or facilitate the presence of a smuggled or trafficked person in the receiving country, carrying a sentence of up to eight years in prison or fine of USD 5,000 to USD 15,000 or both.¹³⁵

The law further establishes the requirement for commercial carriers to verify if passengers have the requisite travel documents (such as passports, visas and supporting documents) for any countries to be transited and for the destination country. This is applicable to staff selling tickets at check-in and those checking tickets on the plane. Failure to comply carries a USD 1,000 fine per passenger, and repeated offences may result in revocation of the carrier's licence.¹³⁶

C.6. Migration external actors within the country

C.6.1. The International Organization for Migration

The Federated States of Micronesia became a Member State of the International Organization for Migration (IOM) in December 2011 during the

¹³³ Title 11, Chapter 6, Subchapter II, Section 621, Code of the Federated States of Micronesia, 2014 version.

¹³⁴ Title 11, Chapter 6, Subchapter II, Section 619, Code of the Federated States of Micronesia, 2014 version.

¹³⁵ Title 11, Chapter 6, Subchapter II, Section 623, Code of the Federated States of Micronesia, 2014 version.

¹³⁶ Ibid.

100th Council Session of IOM and on the Organization's 60-year anniversary. On 17 February 2012, the Government of the Federated States of Micronesia signed a bilateral Host Agreement with IOM, cementing IOM's status as a major intergovernmental organization in the Northern Pacific region. IOM works closely with international and local counterparts to achieve tangible results at every stage of the migration process. IOM Micronesia is implementing activities in the fields of assisted voluntary return, repatriation of stranded migrants, migration management capacity-building, prevention of human trafficking and other projects pertaining to climate change.

In 2013, IOM established a Migrant Resource Centre (MRC) in Pohnpei. The MRC provides support to migrants and potential migrants through pre-departure training tailored to countries of destination, but focuses on Guam and Hawaii. It provides awareness-raising on the risk of human trafficking and referral to service providers in Guam and Hawaii on legal, medical and other social welfare matters. The trainings prepare migrants for the cross-cultural differences they will encounter in the host country.

C.6.2. The Salvation Army

The Salvation Army, an international movement, is an evangelical part of the universal Christian church, supporting those in need. While the Salvation Army mandate doesn't explicitly mention migration issues, it assists without discrimination through a broad array of social services that include providing food relief for disaster victims, assistance to vulnerable populations, and clothing and shelter to those in need. In 2015, the Salvation Army provided temporary housing, food and clothing to stranded migrants in the Federated States of Micronesia.

C.6.3. The United Filipino Community of Pohnpei

The United Filipino Community of Pohnpei (UFCP) is a Filipino community established in Pohnpei in 1980. It provides a platform for formal and informal gatherings of Filipino immigrants in order to strengthen their unity, mutual understanding and friendship. It also provides assistance to its members and access to information and news, especially regarding overseas Filipino workers' rights and privileges.

The UFCP is meant to build civic participation and strengthen commitment and responsibility towards the local communities through various development initiatives. It has an annual civic project aiming to strengthen ties with the host country.

PART D: POLICY IMPLICATIONS AND RECOMMENDATIONS

D.I. Recommendations to data collection, analysis and sharing

D.I.I. Division of Statistics as main agency responsible for data on migration

The Division of Statistics should be the main contact agency responsible for maintaining the sustainability of the migration-related data. Statistics should be published on an annual yearbook with current information, not only on the migrants but on the population itself, and other relevant information, such as trade statistics, gross national product and public safety. These data will help potential migrants assess the statistical situation in the Federated States of Micronesia, as well as assist the government in determining the best methods of using the accumulated information for planning. Statistics should assist the various government agencies in standardizing the tables to make them comparable across agencies and over time. Statistics should also assist private-sector entrepreneurs in developing standard reporting tables that provide important development information and also preserve the confidentiality of the reporting.

Statistics is also responsible for collecting, processing and disseminating census information in many forms – paper, CDs, electronic, from the website – as well as providing continuing and comprehensive updates from their own research and the research of others within the Federated States of Micronesia and from the outside.

And, finally, Statistics must maintain and enhance migration reporting through specific surveys. But even if the surveys are periodic, migration information – both internal and external – can help in developing information and programmes for potential migrants, both immigrants and emigrants.

The Federated States of Micronesia's Immigration and Labor Division should make every effort to develop a database of current migrants, both inside and outside Micronesia to assist in determining potential employment if

migrants can be enticed back to assist in economic development. The Embassy in Washington and the Consulates could help in this endeavour. It is important to note that safeguards would have to be put in place to make sure the data remain confidential. Lawyers would also have to decide if, in fact, it is legal in the Federated States of Micronesia to even have such a database. (Censuses and surveys do not have this problem, since the names are stripped away early on, if they are keyed at all.) But if it is legal, this procedure would enhance the quality of the continued reporting of the Migration Profile information.

D.1.2. Improving data on migration

The Federated States of Micronesia should invest in a complete and modern immigration registration system, including data collected at borders, residence and work permits and a clear definition on terminology (such as immigration, emigration and Micronesian diaspora). For example, the registration should be able to register and re-register when they move to another State. Embarkation and disembarkation cards could also be reviewed in order to collect sufficient data on emigration flows.

In addition, it appears that categories of entry and work permits should be reviewed to match the international migration trends and categories today. For example, it is not clear why a specific entry permit for salespersons is required. Data on remittances was difficult to obtain by the national bank. A specific survey and methodology should be defined to collect further data on formal and informal modes of remittance transfers.

The Federated States of Micronesia does not yet have complete vital registration. Most births are recorded soon after they occur, but some are delayed, often for years, particularly in outlying areas, until a birth certificate is needed for school. As more and more babies are born in the hospitals, the records become more complete. However, some women go to Guam or Hawaii to give birth, and those births are not always recorded in a timely way. Births of emigrants should also be reported in case the family returns to Micronesia, particularly if the Federated States of Micronesia sees economic development as an enticement for people to return. They would return with their outside-born children. As such, a gap may occur in reporting births, and every effort needs to be made to get complete reporting, both to assess current rates and current population dynamics.

The reporting for deaths is even weaker. Many Micronesians go out of the country – either to Guam or Hawaii or the Philippines – when they are near death, and die abroad, and are then sent back for burial. Often, these deaths are not reported, and so they are not included in the total population dynamics. Also, some Micronesians leave the island, die outside and are buried outside. These deaths need to be recorded to obtain a complete record of the population dynamics of the Federated States of Micronesia. The gap between reported deaths and recorded deaths can be improved by making contact with and maintaining good ties with US State and Territorial Public Health offices, as well as those in the Philippines.

D.2. Recommendations pertaining to policy implications

D.2.1. Focus on vulnerable migrants

The extensive issues relating to human trafficking, migrant smuggling, immigration status and detention of irregular migrants point to the need for a comprehensive national approach to a protection framework in the Federated States of Micronesia. One option is to approach each of these issues individually through thematic programmes of support; however, perhaps a better option is to conceive a comprehensive programme targeting trafficking, migrant smuggling, immigration status and detention of irregular migrants, as well as develop a national policy to govern all aspects and understand their interrelatedness. Such a policy should include the points made above regarding legal revisions, regulations and separate legislation for migrant smuggling.

It should also include the development of comprehensive National Action Plans with regard to key migration issues, particularly human trafficking, migrant smuggling and illegal fishing (to include any relevant legislative actions, amendment, approach, strategy and services). It is notable and laudable that a draft National Action Plan to prevent and punish human trafficking has been developed as part of the law's implementation.

The draft National Action Plan should be revisited and reviewed to include the key issues, considerations and elements noted in this review. Once revised and finalized, that plan should be set for national input, any further reviews and then eventually socialized. All national action plans should include consultations to provide an opportunity for national inputs and should be socialized once completed.

It should also clarify and facilitate national responses to irregular migrants – including victims of trafficking, smuggled migrants and any illegal fisherfolks or other irregular migrants, establishing predictable State responses (both police standard operating procedures and government-level responses) and specific budgeting for State reaction, detention, maintenance during detention, prosecution, repatriation/deportation or incarceration.

Special attention should be paid to the detention of irregular migrants. Understanding the need to balance national interest, deterrence and human rights, and without commenting on the specifics of any case, with regard to the treatment of irregular migrants (particularly those who have entered the country illegally and are accused of breaching law of the Federated States of Micronesia in the process, such as smuggled migrants and accused illegal fisherfolks), it is important for the Federated States of Micronesia to ensure adherence to minimum humane standards of detention under both national law and international law. Under national law, perpetrators are generally released on their own recognizance or under bail conditions once trial proceedings have begun; continued detention is not the norm.¹³⁷

Additional specific elements and considerations should also be established –such as developing a roster of pre-vetted official translators to ensure defendant’s rights under the Code of the Federated States of Micronesia’s Criminal Procedure provisions are fully upheld,¹³⁸ and full protocols for separation and identification of victims of trafficking (including in cases where illegal fishing vessels are detained and smuggled migrants are encountered) and due consideration for witness protection in all cases, considering the high likelihood of involvement transnational/organized crime in human trafficking, human smuggling and illegal fishing cases. It should likewise include a new specific immigration status to cover humanitarian and legal circumstances to permit recovery of victims and their participation in any national legal proceedings. An overall national policy would entail significant capacity-building of public officials, hence opening the opportunity of seeing sector grant funding directed accordingly under the Compact; for example, human trafficking has already been specifically mentioned as an area of interest for the Joint Economic Management Committee (JEMCO) in previous years, though not the others.¹³⁹

¹³⁷ Title 12, Chapter 4, Code of the Federated States of Micronesia, 2014 version.

¹³⁸ Title 12, Chapter 4, Section 401, Code of the Federated States of Micronesia, 2014 version.

¹³⁹ Resolution JEMCO 2011-9: Trafficking in Persons JEMCO resolves that it would look favourably on budget proposals for the use of Public Sector Capacity Building grants to conduct anti-trafficking activities as recommended in the FSM Country Narrative of the 2011 US Trafficking in Persons Report (www.uscompact.org/files/home/JEMCO_ResBook_FY12.pdf).

D.2.2. National migration policies for development

To develop national development policy seeking to harness migration, a brief overview of the current situation is helpful. First, citizens of the Federated States of Micronesia can, have been, do and will continue to take advantage of the immigration permissions under the Compact to relocate to the United States. This emigration in and of itself is not necessarily a negative or a positive for the Federated States of Micronesia; however, it does represent an opportunity for the country to seize or lose as a nation. Any policy needs to acknowledge this fact and should work to compile more accurate information on how many citizens of the Federated States of Micronesia are travelling, where to, why and what they end up doing. The only official numbers are those from the first annual report due under the Compact (2004), which were repeated in the next few annual reports (after which the reports are no longer publicly available). Understanding the numbers of citizens of the Federated States of Micronesia who are taking advantage of the Compact should be a first step in developing the means to shape and expand the economic benefits of such emigration for national development.

Second, the diaspora of the Federated States of Micronesia remains strong and closely connected to their homeland, actively engages on political matters in the Federated States of Micronesia and usually retains family ties.

Additionally, internet interest groups and bulletin boards for citizens of the Federated States of Micronesia abroad (such as in Guam) are notably active and vibrant in terms of participation.

Despite some incidental data from other studies and anecdotal information, there is little firm data on remittances. Additional information may turn up from the upcoming household survey – the survey was only in draft at the time of writing, but it apparently had interesting findings showing household expenditures outstripping income, which is a possible indication that remittances play an important role in the economy of the Federated States of Micronesia.¹⁴⁰

In relation to remittances, lack of regulations contributes to data gap. Institutions that provide money transfers are largely unregulated, other than the same business registration that all businesses must go through, despite the unique risks inherent to the transnational money transfer industry. No information has been collected on incoming transactions to the Federated States of Micronesia (such as numbers, amounts and averages), which would be very

¹⁴⁰ File 12/20.5.15 SBOC.

useful in understanding remittance flows and their potential to support to the Federated States of Micronesia's national development. The lack of information, regulation and data, combined with the minimal identification required to receive a wire transfer, means these institutions may be at risk for use in money laundering (essentially transferring funds obtained through criminal activity), with potential criminal implications for the institutions and those who work in them.¹⁴¹

For some financial institutions, it is nearly impossible to properly track remittances. For example, for transnational banks (such as the Bank of Guam) money deposited outside the Federated States of Micronesia appears immediately and simultaneously in the country via the transnational account – it is possible to see what goes in and where, but not properly what comes out. It would take considerable efforts in data collection on a bank's part to identify entry points and exit points of funds on each account. This shows how challenging it is to track whether deposits constitute a remittance unless the depositors voluntarily self-identify a deposit as such.

D.2.3. Existing migration policies

At the time of writing, only limited policies were in place with regard to migration in the Federated States of Micronesia. One of the latest pushes is to establish/take part in labour mobility under the Pacific Island Development Forum. Remembering the above review of the Pacific Island Development Forum – namely composition, which explicitly excludes economically developed countries – and the very political nature of the organization, it is not clear how labour mobility scheme will be of significant benefit to the Federated States of Micronesia. At present, and for the foreseeable future, the Compact is providing a conduit for both excess unskilled labour and scarce skilled labour out of the country. Given the historically close relationship, increasing presence of citizens of the Federated States of Micronesia in the United States, and the relative economic situation, it is unlikely any labour mobility scheme under the Pacific Island Development Forum will prove a significant development factor for the Federated States of Micronesia in comparison to the Compact.

¹⁴¹ “Money laundering means: (a) engaging, directly or indirectly, in a transaction that involves property which is a proceeds of crime; (b) receiving, possessing, concealing, disguising, transferring, converting, disposing of, removing from or bringing into the country any property which is a proceeds of crime; (c) knowing, or having reasonable grounds for suspecting that the property is derived or realized, directly or indirectly, from some form of unlawful activity; (d) where the conduct is conduct of a natural person, without reasonable excuse, failing to take reasonable steps to ascertain whether or not the property is derived or realized directly or indirectly, from some form of unlawful activity; or (e) where the conduct is a conduct of a financial institution, failing to implement or apply procedures and control to prevent or combat money laundering.” Chapter 9, Subchapter I, 903. Definition. (12), Code of the Federated States of Micronesia, 2014 version.

Second, the Federated States of Micronesia has developed an Overseas Development Assistance Strategy.¹⁴² The purpose is to manage development assistance provided to the Federated States of Micronesia to ensure benefits are maximized for all stakeholders – ensuring “positive, sustainable outcomes for individuals, communities, organizations and governments”.¹⁴³ This is an excellent proactive step in seeking to direct external donor development assistance to where it will be of most benefit to the Federated States of Micronesia. At the moment, however, development assistance beyond that provided under the Compact remains extremely low. Compact funds are limited to key sectors (education, environment, health care, public infrastructure, public sector capacity-building and private sector development or other areas mutually agreed upon), and final direction is governed by JEMCO through which decisions on allocation of sector grants are made. These decisions are made in line with considerations laid out under the Fiscal Agreement and the Strategic Development Plan required under the Compact, as well as intended to be used in the way most beneficial to the Federated States of Micronesia.¹⁴⁴

In this vein, the Strategic Development Plan produced under the Compact (as discussed above) is relevant. The Strategic Development Plan is set to guide development in the Federated States of Micronesia from 2004 to 2023 and supposed to be updated in line with national needs on a rolling basis; there are no indications that this has been undertaken since the only version available is the original from 2004. The plan itself is comprehensive, following the key sectors noted above. Given the national capacity in the Federated States of Micronesia, the plan is perhaps overly ambitious, covering many issues in extreme detail. Specifically on the issue of migration, there is explicit acknowledgement of the issue, but seen mainly through a negative light as a challenge facing the country’s labour market – outflow and brain drain, which should be remedied. The suggested response demonstrates good understanding of the issue, but with the focus of rectifying labour market distortions, rather than focus on economic development. The plan correctly notes the need for a national policy directed to the following:

- Reduce the negative impact of Micronesian emigrants in their new communities, especially through improved orientation programmes and screening (health and character) of potential migrants;

¹⁴² Federated States of Micronesia, Policy for Overseas Development Assistance, July 2013.

¹⁴³ P. 3, Federated States of Micronesia, Policy for Overseas Development Assistance, July 2013.

¹⁴⁴ Article II Economic Assistance Implementation, Section 1, US-FSM Fiscal Procedures Agreement; Title Two, Article 1, Section 211, (a) 2003 Compact.

- Improve the likelihood of success of Micronesian emigrants through targeted human resource development (training), regulation of external labour recruitment programmes, and increased overall academic standards; and
- Introduce programmes to encourage remittances and return of skilled Micronesian workers and entrepreneurs.¹⁴⁵

D.2.4. Enhance pre-departure support

National policy should include focus on pre-departure support. The ultimate aim should be to better prepare citizens of the Federated States of Micronesia seeking to emigrate by increasing their skills and employability while simultaneously supporting successful integration into receiving communities. Investment in pre-departure support can lead to guaranteed, higher-quality placements, with concomitant increased salaries, and in turn, increased financial returns for the Federated States of Micronesia through remittances.

It is notable that labour mobility schemes in the Pacific are currently receiving attention from the Federated States of Micronesia’s Department of Resources and Development as a potential economic driver. While this could play a small role for employment of citizens of the Federated States of Micronesia in the future, realistically, with the emigration draw created by immigration permissions under the Compact, enhanced pre-departure support should focus on emigration to the United States and improvement of skill sets and quality of emigrants.

Potential services of benefit could include free health screening to ensure that citizens of the Federated States of Micronesia will receive any necessary care/treatment prior to departure and arrive physically fit to work. This will also ensure that they do not pose health risks in receiving communities (such that tuberculosis is endemic and common in the Federated States of Micronesia) and/or become a burden on receiving community’s health-care systems. This should be seen as but one element in a comprehensive policy rather than a stand-alone programme.

¹⁴⁵ NB – a part of the recommendation is not included since it essentially entails national development as a means rather than the end “Reduce the ‘push’” factors leading to emigration of productive workers, especially by improving living standards in general and health and education services in particular. p. 104, para. 74, *Federated States of Micronesia’s Strategic Development Plan (2004–2023). The Next 20 Years: Achieving Economic Growth and Self-Reliance. Vol. I Policies and Strategies for Development* (Third Economic Summit, 2004). Available from www.adb.org/sites/default/files/linked-documents/cobp-fsm-2015-2017-sd-02.pdf.

Orientation services could be expanded beyond introductory behavioural and cultural information to include more detailed training on key elements in US law to ensure citizens of the Federated States of Micronesia do not unwittingly commit crimes. It was relayed that citizens of the Federated States of Micronesia sometimes unknowingly breach national laws in the United States (in particular, the age of consent and statutory rape provisions were cited). These citizens may end up prosecuted and spending time in US prisons alongside hardened criminals before being deported to the Federated States of Micronesia, thus imparting a criminal mind and skill – a negative for both the Federated States of Micronesia and the United States.

It is not clear what impact and level of operation external human resources recruitment businesses/programmes have in the Federated States of Micronesia. However, it could be worthwhile to investigate the potential value of such firms to connect citizens of the Federated States of Micronesia with meaningful employment in the United States, helping ensure those emigrating have employment lined up – and help avoid illegal and shady recruitments (such as the Blue House case). Other countries have established both incentives for such companies in addition to strict regulations on their operation (such as the Philippines).

Finally, in line with recruitment agencies and labour market demands, in-depth technical skills and training courses could be developed to match demands, increase earnings and facilitate placements. This could include additional language training for those with only basic English language skills.

D.2.5. Expand to include continued post-departure support

It should also be noted that the above support services, if provided on their own, could serve to facilitate and accelerate exit of both skilled and unskilled labour from the Federated States of Micronesia – potentially creating a “brain drain”. Pre-departure support services must be paired with ongoing post-departure services and mechanisms to ensure continued economic benefits and protection for the individuals involved, as well as ensure such benefits can be directed back to the Federated States of Micronesia in a way that maximizes national economic benefit and development.

Needs do not cease once a citizen of the Federated States of Micronesia emigrates and neither should State support. Post-departure support should, where possible, include active and ongoing engagement with citizens of the Federated States of Micronesia who have left. Beyond simple consular support

typically provided by an embassy, such services should include continuing information and consultation services on various issues and rights, perhaps most importantly on employment/labour and contract rights. These should include continued networking and support on legal and human rights related to their rights as workers, basic human rights, relevant instruction and guidance on available means and mechanisms for redress in case of violation and/or grievance.

Support should also go towards continued mental and emotional well-being, including facilitation of communications with family and friends back home and establishing local diaspora networks (which has already be done successfully, in a number of jurisdictions by embassies of the Federated States of Micronesia). Establishing local networks plays the dual role of ensuring the diaspora community remains engaged in issues of the Federated States of Micronesia and can be identified for further involvement in programming in the country's national government interest.

Further support should be provided for remittances – to track, encourage, shape and harness them for national development. Without clear data available on the amount, and consequently the impact, of remittance, the first step should be to introduce policy and programming to track and identify key remittance flows. It must be recognized that it can be very difficult to track remittances since they can take many forms (inter alia, official and unofficial cash transfers by hand or by bank, direct deposits, direct purchases on behalf of family members and transfer of actual material goods).

With remittance flows identified, even if only partially, further policy can be developed. Without such information, based on anecdotal evidence and common sense that indicates remittances of the Federated States of Micronesia diaspora do indeed play an important part in the national economy, policy should focus on ways of channeling and harnessing remittances to maximize the benefit for individuals and the State. This could be accomplished by establishing legal obligations for citizens of the Federated States of Micronesia to provide remittances to families (which is already occurring), but could also include special savings and/or financial investment incentives (with guaranteed tax-free status and rates of return, for example) for those working abroad; this is currently the case in the Philippines, and it has been working for years. Likely necessary as part of this would be increased regulation and monitoring of the money transmission industry, acknowledging the need for increased oversight and development as a data source, and likewise acknowledging that the international money transfer business is different from general business with unique risks – but also

with immense (potential) benefit for the Federated States of Micronesia. Any policy on remittances should seek to actively include these institutions (they are, generally speaking, proven international experts in global cash transfers) rather than exclude them, and regulation should be as minimally invasive, balancing the achievement of policy aims with ease of doing business.

D.2.6. Encourage “brain gain”

Policy should be established to encourage the return of skilled Micronesian workers and entrepreneurs – otherwise termed “brain gain”. In particular, policy should focus on developing and re-attracting citizens of the Federated States of Micronesia with higher skills who are, or who will, live abroad after obtaining their education. While some citizens may come back out of desire to contribute to their nation and be close to their family, culture and heritage, it is not enough to rely on these incentives. With the right incentives, financial or otherwise, return rates will increase.

Possible short-term mechanisms may include establishing a support framework to encourage skilled returnees. This is not a new concept; IOM and UNDP, as well as other organizations are already supporting similar programming in other countries, engaging diaspora communities to bring home skilled workers to contribute to national development in ways that skilled foreigners cannot; intimate country knowledge enables identification of needs that might otherwise have been ignored, while cultural and linguistic skills may facilitate the transfer of technology.¹⁴⁶ There is obviously some draw to the Federated States of Micronesia already, considering the number of foreign lawyers, for example, serving in national government. Identification of what could create the draw for skilled citizens of the Federated States of Micronesia to return and fill similar positions (rather than foreigners) is necessary; these could include incentive packages akin to those often offered to expat workers (inter alia, paid travel, housing support outside families and adjusted salary scales).

Longer-term responses could include the establishment of scholarships for study in foreign universities to foster higher education (the United States being the most logical, given the combination of immigration permissions and quality of education). One model already employed by various universities includes the provision of full scholarships to students from developing nations – with

¹⁴⁶ For example, see brief review of the Transfer of Knowledge Through Expatriate Nationals (TOKTEN) Programme for South Sudan. Similar programming has been developed and implemented in many other countries. Available from www.weforum.org/best-practices/talent-mobility/tokten-transfer-knowledge-through-expatriate-nationals-programme

the provision and requirement that they return to their home nations to work for not less than three years upon completion of their degrees. With Compact Sector Grants available to education and public sector capacity-building, there is the chance to use Compact funds to establish such scholarships in addition to any State and university funds made available. Fields of study supported should match demonstrated current and predicted need in the Federated States of Micronesia – for example, the number of foreign lawyers serving in the Federated States of Micronesia points to the need for qualified and skilled lawyers while some sources indicated a strong need for qualified accountants.

D.3. Recommendations to legal framework

D.3.1. Constitution

The preamble of the Constitution, though not technically an active legal provision, provides an important tool for interpreting and implementing the Constitution (particularly, the fundamental rights enshrined therein) and all related subsidiary legislation by government, and indeed government policy and actions under the Constitution. It indicates the Federated States of Micronesia extends “peace, friendship, cooperation, and love in our common humanity”.¹⁴⁷ More firmly, elsewhere the Constitution establishes the obligation for national and State government to uphold the Constitution and advance the principles upon which it is founded, while public officials must swear an oath to uphold, promote and support the laws and the Constitution, and accordingly must do so in carrying out their functions.¹⁴⁸

Fundamental rights are applicable to both citizens and foreigners.¹⁴⁹ There are but three exceptions in the Constitution:

1. Only citizens of the Federated States of Micronesia are guaranteed freedom to travel and migrate within the country, meaning this can be regulated and restricted for foreigners by law at either State or national level;¹⁵⁰

¹⁴⁷ Preamble, para. 5, Constitution of the Federated States of Micronesia.

¹⁴⁸ Article XIII, Sections 3 and 7, Constitution of the Federated States of Micronesia.

¹⁴⁹ While seemingly clear from a rights-based interpretation of the Constitution, apparently, this was contested in a 2005 court case, which subsequently confirmed equal applicability to non-citizens (File 13/21.5.15, Department of Justice, Palakir).

¹⁵⁰ Article IV, Section 12, Constitution of the Federated States of Micronesia.

2. Non-citizens or corporations not wholly owned by citizens cannot buy land or gain title over water in the Federated States of Micronesia;¹⁵¹
3. Non-citizens or corporations not wholly owned by citizens cannot obtain indefinite term lease agreements for the use of land – though governments are permitted (such as to establish permanent missions/representation through an embassy or consulate).¹⁵²

Otherwise, the Executive is permitted to restrict civil rights, but only to the extent necessary, if required to preserve public peace, health or safety, at a time of extreme emergency caused by civil disturbance, disasters or immediate threat of war – foreseen to temporary (automatically expiring after 30 days barring any action) and only used under the most urgent and dire of national circumstances.¹⁵³

Grounds for non-discrimination should be expanded.

The applicable grounds and categories for non-discrimination regarding fundamental rights and protections under the law should be expanded beyond sex, race, ancestry, national origin, language and social status.¹⁵⁴ These are constitutionally guaranteed non-discrimination provisions. However, equal protections are not guaranteed on the grounds of the following: gender/sexual orientation, age, ethnicity, religion or immigration status. While the courts may eventually (or may not) interpret these to be implicit, they are presently not guaranteed under the Constitution.

D.3.2. Recommendations regarding international treaties

The Federated States of Micronesia should become a party to the 1951 Refugee Convention.

The Federated States of Micronesia is not a party to the 1951 Refugee Convention (and 1967 Protocol). Beyond this, there are no asylum provisions in national law or policy. Regardless, certain provisions of the Refugee Convention have almost certainly reached the status of peremptory international legal norms – such as the principle and restriction of non-refoulement – meaning they are binding upon all States, not just parties, including the Federated States of Micronesia. Recognizing the number of past, actual and future asylum

¹⁵¹ Article XIII, Section 4, Constitution of the Federated States of Micronesia.

¹⁵² Article XIII, Section 5, Constitution of the Federated States of Micronesia.

¹⁵³ Article XIII, Section 9, Constitution of the Federated States of Micronesia.

¹⁵⁴ Article IV, Sections 3 and 4, Constitution of the Federated States of Micronesia.

claimants may be low, there remain neither formal policy nor legal framework for international protection, cooperation and support with the Office of the United Nations High Commissioner for Refugees (UNHCR) and IOM for actual or potential cases involving asylum and refugee claims. Given the increasing internal and regional pressures caused by climate change (such as salination, land loss and lack of potable water), this will increase the risk of conflicts that will generate Convention refugees, as well as potential climate refugees.

The reasons and value for the Federated States of Micronesia becoming a party are perhaps expressed best by UNHCR itself:

Notwithstanding the relatively small number of cases, and the competing domestic priorities, accession to the 1951 Refugee Convention and its 1967 Protocol, and establishment of a national legal framework would provide a clearer basis for the Government of FSM to provide refugees with international protection and a mechanism that enables the appropriate engagements of relevant international organisations like UNHCR and IOM.

While UNHCR believes that formal accession to the 1951 Refugee Convention provides States with the best framework within which national laws and regulations can be developed it also recognizes that this is not necessarily the first step that FSM need to take to develop effective, balanced and credible national systems for refugee protection.

UNHCR reiterates its disposition to provide awareness/education programmes on asylum-seekers and refugees, technical support in drafting national refugee legislation and capacity-building for Government officials, as well as to assist in contributing to the creation of the institutional capacity for the development of a national refugee status determination procedure.¹⁵⁵

It should be noted that the costs of becoming a party to the Convention would be low – both politically and financially, other than time spent in Congress developing and passing receiving national legislation to establish a new class of immigration permission. Once signed, it would produce the benefit of guaranteed international support for any asylum-related case in the country – potentially saving the Federated States of Micronesia associated time, hassle

¹⁵⁵ Submission by the United Nations High Commissioner for Refugees to the Office of the High Commissioner for Human Rights Compilation Report - Universal Periodic Review: The Federated States of Micronesia (2010). Available from www.refworld.org/pdfid/4bcd78532.pdf

and costs of being forced into a position of response rather than pro-active planning. To that end, it is worth noting that other small island developing nations with small populations and likewise limited capacities have acceded to the Refugee Convention and are managing their obligations, including Nauru (9,300 estimated population), Tuvalu (10,800 estimated population), St. Kitts and Nevis (54,000 estimated population), Seychelles (92,000 estimated population), Saint Vincent and the Grenadines (103,000 estimated population), Sao Tome and Principe (190,000 estimated population), Solomon Islands (523,000 estimated population) and Timor-Leste (est. 1.1 million population).¹⁵⁶

The Federated States of Micronesia should become party to the Protocol against the Smuggling of Migrants by Land, Sea and Air.

The Federated States of Micronesia is not a party to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Despite this, provisions to punish human smuggling are contained in national law; however, the provisions contained in the law are not in line with the Protocol. Recent experiences in 2014–2015 with smuggled humans/migrants in the Federated States of Micronesia clearly demonstrate the need for both comprehensive national policy and national laws to more smoothly address the issue, as well as the need to better protect those victimized by the experience. The issue could worsen in the near future, given crackdowns on human trafficking and border restrictions and closures in Australia and the ASEAN region. Many key provisions are already contained in the Protocol and provide an excellent starting point for national discussion on the matter. Likewise, valuable regional and international technical experience, expertise and cooperation on the issue – especially on maritime cooperation, protection and treatment of victims, could more easily be afforded under the provisions of the Protocol – specifically mentioned in Article 14.2 of the Protocol. Accordingly, acceding to the Protocol, which carries no political or economic risk but only benefits, should be considered a national priority.

¹⁵⁶ UNHCR up-to-date Refugee Convention signatory listing available from www.unhcr.org/3b73b0d63.html

The Federated States of Micronesia should become party to the 1954 Convention Relating to the Statelessness and 1961 Convention on the Reduction of Statelessness.

Likewise, the Federated States of Micronesia is neither party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. While there are some provisions in the Constitution and national laws on citizenship and nationality, they restrict prospective access to citizenship and nationality, but include provisions to ensure citizens of the Federated States of Micronesia do not become stateless by virtue of dual-citizenship restrictions in the laws themselves. However, with such restrictive access to citizenship and nationality, this could lead to situations of statelessness in case of children born to foreigners who were born in the Federated States of Micronesia, particularly for cases involving vulnerable migrants (such as children born to smuggled migrants or victims of trafficking). The Federated States of Micronesia should become a party to these Conventions as there are negligible costs involved, political or otherwise.

D.3.3. Compact Agreement

Due to widespread misunderstanding, the Federated States of Micronesia and the United States should jointly clarify the impact year 2023 will have on the Compact with the Federated States of Micronesia public.

The first point to tackle is a point of confusion regarding the Compact. It is widely believed and misunderstood that the Compact will expire in 2023 in its entirety. This came across in formal and informal discussions and online research, which revealed online discussions in chat rooms/blogs involving citizens of the Federated States of Micronesia who were demonstrating confusion.¹⁵⁷ Indeed, a number of important portions of the Compact, namely US Sector Grants, US Trust Fund contributions and US financial support to auditing and reporting elements under the Compact will end. This, however, does not mean the entire compact and other related provisions (immigration permissions, for example) will also expire; the Compact as a whole will remain in force. Negotiation over the expiration of these portions may still be subject to negotiation, mindful that the financial aims of the trust fund are unlikely to be met by 2023 due to less-than-planned investment performance during the years of the global financial crisis. US geopolitical concerns remain pressing in the Pacific, under the contemporary US administration's "Pivot to Asia" policy.

¹⁵⁷ Posted by: Oalong. May 2014 on www.micronesiaforum.org/index.php?p=/discussion/12089/its-a-lie-america-wont-terminate-the-cofa-agreement-p1

Misplaced concern over an end to US immigration permissions in 2023 could lead to an ill-informed surge in emigration from the Federated States of Micronesia to the United States. Publicly addressing the fact that the Compact does not end in 2023 should be considered a priority for both governments. This should likewise be considered under the specter of climate change as a potential driver of emigration from the Federated States of Micronesia – namely vulnerability to the impacts of climate change, loss of land due to sea-level rise, increased typhoon activity, higher storm surges and coastal erosion – could create forced internal migrants, but also external migrants given the ease of movement to the United States.

D.3.4. Immigration Act and Immigration Regulations

Police clearance and health requirements for entry permits should be eased in favour of merit and national needs-based immigration.

Entry permit applications that must include police clearance (showing no convictions for a felony or “crime against moral turpitude”) and a certificate of good health may be burdensome and constitute a deterrent against immigration to the country.¹⁵⁸ These are requirements that may not be able to be met in many cases prior to entry. Consideration and flexibility should be given to ease such strict requirements with greater emphasis placed on requisite skills for immigrants as desirable qualities.

Changing the status of entry permits should be simplified, including reducing the USD 1,000 fee, to facilitate permanence of skilled immigrants and increase ease of doing business for companies with a demand for skilled immigrant labour that cannot be obtained locally.

The requirements to change the status of an entry permit are challenging. Recognizing the probable intent to limit the possibility to switch permissions for those who visit and decide to stay and ensure the national labour market is tapped, the change fee of USD 1,000 that cannot be waived provides a disincentive for all individuals – even desired skilled immigrants.¹⁵⁹

Likewise, it provides a substantial disincentive to businesses and foreign investors seeking to engage the services of skilled individuals who possess relevant country experience. If the desire is to encourage employers to seek

¹⁵⁸ 2.6 Title 50 FSM Immigration Regulations.

¹⁵⁹ Title 50, Chapter 1, Section 104 (3) (b), (c) and (4), Code of the Federated States of Micronesia, 2014 version.

local labour over immigrant labour, this may achieve such a goal to some degree, but is more likely to push migrants towards “under the table” work, or ensure desired and necessary skilled migrants are excluded from the job market – both of which are results that serve to undermine national economic development.

A special category/waiver for entry should be envisaged to grant those with pressing humanitarian needs to remain legally in the country; special attention should be given to victims of international crimes (such as victims of trafficking and victims of aggravated human smuggling) and those who will participate in national legal proceedings, with specific services and permissions made available to them in line with international laws, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Protocol against the Smuggling of Migrants by Land.

The requirement for persons who cannot present the requisite immigration authority/entrance document to return to the aircraft or ship that brought them runs the risk of becoming a “limbo” provision – not necessarily for a commercial carrier, but particularly for cases of (failed) migrant smuggling where boats used are generally very dangerous and potentially not seaworthy. The requirement alone, without possibility of a special temporary immigration permit, puts those arriving in the position of being illegally in the country and confined to their boat, one that may be incapable of taking them out of the country.

Those smuggled are then stuck between situations without the ability to provide for themselves, effectively becoming wards of the State and burdens for the duration of their (potentially lengthy) stay until they are repatriated or otherwise dealt with. Similarly, health requirements for distress cases involving non-commercial vessels and denial/revocation of entry permits for those suffering serious communicable diseases are questionable in situations involving smuggled migrant and victims of trafficking;¹⁶⁰ serious health issues may be the cause of crimes committed against these groups, such as slave labour for those stuck working on a ship, HIV/AIDS contracted through sexual exploitation and aggravated human smuggling resulting in serious risk to the life of the smuggled person. These should be seen through a humanitarian lens rather than as a ground to turn away requests for assistance by those in distress or a reason to revoke entry permits.¹⁶¹

¹⁶⁰ 2.12 and 9.5 (a) Title 50 FSM Immigration Regulations, Title 50, Chapter 1, Section 107 (1) (a), (f), (g), (h), (i), (j) and (k).

¹⁶¹ 9.6 Title 50 FSM Immigration Regulations.

D.3.5. Human trafficking and human smuggling law

The Human Trafficking Act should be amended and redrafted to bring it fully into line with international legal requirements and remove legal ambiguities at the national level.

There is a need for amendment and redrafting of the Human Trafficking Act so it can be in line with international standards and best practices – all mindful of the Federated States of Micronesia’s special historical, economic and geographic context, with particular attention to the limited available financial resources. This should be considered a priority under any eventual national action plan.

Human trafficking and human smuggling are distinct and distinguishable crimes, which are dealt with by two separate international protocols; the Federated States of Micronesia is only a party to the Human Trafficking Protocol, but as noted above, not the Human Smuggling Protocol. While efforts to address the issue are laudable, use of a single law to do so raises some issues.

Section 21 (a) of the Constitution states that the Federated States of Micronesia “Congress may make no law except by statute and may enact no statute except by bill. ... A bill may embrace but one subject expressed in its title. A provision outside the subject expressed in the title is void.” The law “embraces” human trafficking in its title, and the separate crime of human smuggling is outside of that expressed subject and potentially void.

Additionally, dealing with the separate issues in the same legislation confuses both issues. The needs and protection for victims of trafficking are often very different than those of smuggled migrants, and prosecution of each requires different evidence. It is possible for cases involving smuggled migrants to include cases of human trafficking (such as forced servitude/labour exploitation of crew members), but they are distinct and should be treated as such.

The definitions used in the law also contain some notable differences from the Trafficking Protocol. For example, “Reasonable and lawful work or services by a child at the behest of a parent or legal guardian” is excluded from the definition of “forced labour or services”, and “prostitution” is defined as “illicit sexual services performed for financial or material benefit”. The addition of the qualifying term “illicit” is unnecessary and may complicate investigation and prosecution; the prosecution and the police have to gather evidence to prove not just that sexual services were being performed for financial or material benefit, but also that those services were “illicit” when the term is not defined

under the Federated States of Micronesia law. In relation, the term “national of the Federated States of Micronesia” is used in Section 621. As noted above, there is a difference between a “citizen” and a “national” of the Federated States of Micronesia, leaving some confusion as to who is referenced in the law (these apply to cases of human smuggling as well).

An additional point of concern is the fact that FSM States have passed State-level mirror legislation on human trafficking despite the apparent national character of the crime (evidenced by national legislation included in the Code of the Federated States of Micronesia). This leaves the legal jurisdiction (State or national) for both investigation and prosecution cases of human trafficking cases unclear and contingent upon ad hoc factors that are not established by law – and this ought to be clarified by law.

Overall, redrafting should necessarily include removal of human smuggling from the human trafficking law, which necessarily means drafting a separate and new law for human smuggling – and revision with an eye to streamline the terms and definitions used in the law.

Pending legal amendment and review of the human trafficking law, regulations foreseen by that law should be developed and issued as a priority.

Regulations, while foreseen under the law to establish and implement services and protection for victims of trafficking, have not been implemented.¹⁶² However, the broad framework for those regulations overall does not distinguish between victims of trafficking and victims of aggravated human smuggling, which should be undertaken. Additionally, there is no distinction between victims and witnesses in either case – nor of victims who are also witnesses – important considerations for protections, services and involvement in criminal proceedings.

The Federated States of Micronesia should develop and implement national legislation regarding witness protections, which should be made available to victims of trafficking and smuggled migrants as foreseen under international law.

In both human trafficking and human smuggling, there is no mention of witness protection. Witness protection is a cornerstone under the UN Treaty Convention against Transnational Organized Crime and its protocols, precisely because of the dangers to life and person (and anyone close to them) posed

¹⁶² They may have been developed internally, but have not been legally implemented.

to those who agree to testify. The likely involvement of organized criminal elements means increased threat for witnesses testifying, even if the organized criminal elements are not based in the Federated States of Micronesia, and such protections should either be included in national laws dealing with human trafficking or migrant smuggling, or expressly referenced as one of the services/ protections available in each.

The misuse and withholding of passports or other forms of identification should be made illegal as one of the primary means of control employed by human traffickers and people smugglers.

With regard to the use of fraudulent travel/identity documents, an offence is established; however, this could and should have gone further in terms of criminalizing the withholding of passports/identity documents as one of the key means traffickers and smugglers establish and maintain control over their victims (as holding the threat of arrest by local authorities for immigration violations and as security for payment).

The Federated States of Micronesia should begin undertakings to become a party to the Protocol against the Smuggling of Migrants by Land, Sea and Air.

As a priority, the Federated States of Micronesia should begin national discussion and undertakings to accede to the Protocol against the Smuggling of Migrants by Land, Sea and Air. The costs of accession and implementation are minimal, while benefits include improved, targeted international assistance and cooperation on the issue of migrant smuggling.

A separate law dealing with human smuggling should be drafted, recognizing that human trafficking and human smuggling are very different crimes with different elements necessary for prosecution and different services required for victims. This should also refine and narrow the definition of human smuggling to avoid overly broad application to unintended circumstances.

For human smuggling, it is crucial that a separate law be passed, fully recognizing the difference in phenomena and requisite treatment and protection involved. Whether undertaken as part of accession to the Protocol or otherwise, as noted above, a separate comprehensive national law that specifically deals with the issue of human smuggling should be drafted.

Any law should be in line with international standards and best practices (The United Nations Office on Drugs and Crime has produced an excellent model

law), but with due special consideration of the Federated States of Micronesia's special context and limited resources. Given the remoteness of the Federated States of Micronesia and potential for dire conditions among smuggled humans, due regard should be given for special protections and services for smuggled migrants who have fallen victim to smugglers (such as those who employ means endangering the lives or safety of smuggled migrants or means that constitute inhuman or degrading treatment, including exploitation).

Consideration should be given to the definition in law of the crime of human smuggling. Presently, per the Human Trafficking Act, the definition is overly broad that leaves unanticipated consequences and potential abuse in application possible. The definition: "A person who knowingly or recklessly arranges or assists another person's illegal entry into any country, including the Federated States of Micronesia, of which the other person is not a citizen and has no lawful right to enter, shall be guilty of human smuggling, regardless of whether the smuggled person successfully arrives in the receiving country."¹⁶³ Notwithstanding the other requisite criminal law elements of the offence, it is unclear why the mental element of the crime (*mens rea*) includes knowingly or recklessly committing the prohibited actions. The general legal meaning of "recklessness" is action or conduct where the actor does not intend for harmful consequences to occur, but foresees the possibility of those harmful consequences occurring, but undertakes the action regardless of the risk.¹⁶⁴

Any national law should include planning on how and where to hold smuggled migrants – out of due consideration that they themselves can become victims in cases where smugglers create serious dangers to those they smuggle. It would also be helpful to develop firmer guidelines on how (or whether) to proceed with plea bargaining and deportation of human smugglers and smuggled migrants themselves. One part of this could include accession to the 1954 Refugee Convention in full realization that smuggled migrants may be genuine asylum claimants.

Regardless of veracity, non-refoulement principles bar the return of anyone to another State where the life or liberty would be threatened, or face persecution on the grounds of race, religion, nationality, membership in a particular social group of political opinion or risk torture. These principles are almost certainly a part of the body of customary international law and may have attained the status of peremptory norms; they are binding upon all States,

¹⁶³ Section 613.

¹⁶⁴ This is the approximation of the meaning in the common tradition law; it is only an approximation rather than definitive per case law of the Federated States of Micronesia.

including the Federated States of Micronesia, even though not a signatory to the Refugee Convention.¹⁶⁵

A special new immigration status and category should be envisaged to provide legal immigration status for victims of trafficking, aggravated human smuggling, any witnesses in related cases, and otherwise on humanitarian and compassionate grounds relating to human trafficking and/or human smuggling.

No mention of the immigration status of victims of trafficking and/or smuggled migrant is made in the Human Trafficking Act, and no provisions exist for humanitarian/compassionate/recovery entry permits in the Federated States of Micronesia's Immigration Act. Victims of trafficking are exempted from prosecution for illegal entry, while smuggled migrants are not; additionally, not being criminally prosecuted does not grant victims of trafficking any legal rights to remain in the country.

National law(s) should be updated to include special immigration status (a new class of entry permit) for victims of trafficking, aggravated human smuggling, witnesses in related cases, and otherwise humanitarian and compassionate grounds. Such special immigration permission should be strictly controlled – established as a new form of entry permit that would still require application, rather than issued automatically – with the key aims to provide legal authorization to remain in the Federated States of Micronesia long enough for victims to recover from their ordeals and/or participate in any criminal investigations and proceedings. Ensuring these participants are able to remain in the country will greatly facilitate criminal proceeding, thus helping to establish prosecution as a deterrent.

Internationally, similar visas also include the right to continuing medical and psychosocial services, education, health care and some limited work permissions to enable recipients to support themselves (helping ensure they do not place additional burden on limited State resources). While special immigration status could be added individually to trafficking and human smuggling laws, it would be most effective if this is added to the Immigration Act and Regulations; as noted above, no entry permit exists on humanitarian and compassionate grounds.

¹⁶⁵ Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol at para. 15 www.refworld.org/pdfid/45f17a1a4.pdf; J. Allain (2001), "The jus cogens Nature of non-refoulement", *Int J Refugee Law*, 13 (4): 533–558.

PART E:ANNEXES

Annex I: Concepts and internationally recommended definitions in the area of international migration statistics

Generally speaking, when producing statistics in international migration, a basic distinction is made between the concept of flow and that of stock. Flow data are related to the events that happen on a continuous basis and counted during a given period of time, which is usually one calendar year, while stock data present the situation of a given population at one point in time. The flow data include the characteristics of the events (immigrations and emigrations), and of the persons involved in these events (immigrants and emigrants), while stock data present the size and characteristics of persons who make up the population at the precise moment. In the case of international migration flows nets in question are international migrations, and the persons involved in these events are defined as international migrants. For stock, the population groups that are relevant to international migration include all persons who are directly or indirectly to such migration.

Since any international migration changes the population stock figure, it is considered to be a demographic event. International migration flow data consist of the international migrations counted for a given country during a given period; considering the origin and destination of the migrants involved, the following two concepts are used for migration flows:

- International immigration flow is the number of international movements in a given country over the course of a specified period, usually a calendar year; and
- International emigration flow is the number of international emigrations from a given country over the course of a specified period, usually a calendar year.

Based on the United Nations recommendations (UN 1998), the period of at least a year used in the definition of international migrant is consistent with the “at least 12 months” threshold used in the definition of country of usual residence. In practice, it may be based on either intended or actual duration of stay, depending on the data source used. When administrative registers are used, data based on intended duration of stay as reported by migrants at the time of registration may be compared ex-post with the actual duration of stay.

The latter may be considered as being more reliable even if only available one year later.

To summarize the criteria for defining a person as an immigrant in a given country, the following conditions must be met:

- Entered the country by crossing the State border;
- Had been a usual resident of another country before entering; and
- Transferred his or her usual residence to the receiving country for at least one year.

Similarly, an emigrant of a country must satisfy the following conditions:

- Left the country by crossing the State border;
- Has been a usual resident of this country; and
- Transferred his or her usual residence to another country for at least one year.

More recently, the new concept of circular migration has generated a new category of migration movements for the purpose of work or study at all skills levels from one country to another, with voluntary return after a certain period of time. There may be one period abroad or successive periods of time abroad and in the country of origin. It may also involve such mobility of members of the diaspora, moving to the country of origin or ancestry for limited periods of time. Circular migration occurs spontaneously, but may be most beneficial for the migrants and development, when facilitated (or at least not hindered) by governments and implemented through partnerships among private, government and other agencies, and linked to labour market planning in both host and origin country. Unfortunately, neither the UN nor the ILO proposes any concrete definition for producing statistics on circular migrants, and only border crossing data could help identify circular migrants.

As far as the definition of population stock relevant to international migration is concerned, the key indicators for identifying a person having some personal involvement in international migration are country of birth, current citizenship and mode of acquisition of citizenship (by birth or naturalization), and international migration experience.

Country of birth

If a person's country of birth is different from the country of usual residence, this is the most direct indicator of international migration. Information on country of birth is usually derived from the place of birth. Logically, the two complementary population groups based on country of birth can be defined as follows:

- Foreign-born – persons who were born in another country; and
- Native-born – persons born in the country.

Citizenship

Of all the characteristics pertaining to a migrant, citizenship is probably the most important, as well as the one most often used. Generally, the most basic categorization of international migration flows introduces distinctions – between immigration and emigration, on the one hand, and between citizens of a given country and non-citizens on the other. Again, logically, the two complementary population groups based on citizenship can be defined as follows:

- Foreigners – persons who do not hold the citizenship of a given country; and
- Nationals – citizens of a given country.

Both foreigners and nationals can be either foreign born or native born.

An individual's citizenship at birth can be different from the current citizenship at the time of data collection. Additional information is needed on changes of citizenship to distinguish between those who are nationals by birth and those who are nationals by naturalization, whether by declaration, option, marriage or other means. Moreover, special attention should be devoted to those holding several citizenships.

Other key indicators

Several indicators relevant to international migration have been suggested by the UN in its recommendations. Determining the year of arrival in the country, as well as the total duration of residence in the country or in the country of usual residence one or five year(s) ago (in the country concerned or abroad) can help distinguish between recently arrived immigrants and those who have been living in the country for a longer period of time. The reason for migration could also

bring an additional disaggregation of population groups relevant to international migration. However, if the reason is self-reported, it may be subjective. Only if the reason for migration is for obtaining a residence permit can it be considered as relatively objective and valid information. More detailed population groups can be identified by considering certain characteristics of parents, such as their country of birth or citizenship. Even if these additional indicators helped identify other population groups relevant to international migration, such as second- and third-generation migrants composing the diaspora, such information is generally not available. To collect data on the diaspora, such questions should be asked in the receiving country, since it is difficult to obtain information about the diaspora in the country of origin.

Country of usual residence

A variety of possible interpretations of the term “country of residence” can result in a lack of clarity in the statistics related to the usual resident population and international migrations. The country of residence can be interpreted from a legal (*de jure*) or actual (*de facto*) point of view. From the legal perspective, the laws and regulations of a given country specify requirements that have to be fulfilled to become a resident, and the conditions differ for citizens and non-citizens. Citizens have an unconditional right of residence in their country of citizenship, while rights of foreigners are subject to concrete conditions. Having a legal place of residence in a country does not necessarily mean the physical presence of a person in the territory. Citizens may still be counted as part of the resident population of their country of citizenship even if they have lived abroad for a number of years.

The concept of country of usual residence is based on that of place of usual residence, with the latter being defined as the place where the person spends most of his/her daily rest periods. This definition excludes all places where the person stays for short-term holidays, visits, pilgrimages or business trips. The place of usual residence is a central place in an individual’s life and often referred to as home – the place where they begin and end most daily excursions. Accordingly, special attention should be paid in identifying the country of usual residence. However, this consideration is purely theoretical, and considering the country of usual residence as the place of usual residence is the most workable method.

Interpreting the meaning of most of one’s daily periods of rest to consider a given person as usual resident can be done only on the basis of actual stay. The time criterion for assessing the actual stay of a person in the country is “at least

12 months”, and the country will be considered as the country of residence for a given person if the following conditions are met:

- The person lived in the country one year ago;
- During the last year, he/she spent most daily periods of rest in the country (for a cumulated time of more than six months); and
- The minimum six months’ daily periods of rest within the country do not include holidays, visits, pilgrimages or business trips.

Using these criteria, the country of usual residence would be defined on the basis of actual stay only. Accordingly, a person who arrived in a given country more than six months but less than one year ago would not be considered a usual resident of that country even if he/she stayed there continuously since immigrating. However, a person who entered the country during the last year could be counted as a usual resident if he/she intends to stay. Persons who entered the country during the last year and intend to spend most of their daily periods of rest within the country for one year starting from the date of arrival would also be considered a usual resident of that country.

The time criterion can be applied to both former and future situations concerning migrations. Former situations may be based on self-reported retrospective information in censuses and surveys or on registered information in administrative databases, and both may suffer from biases resulting from memory problems or false declarations, or because only official, legal administrative data are entered into administrative databases. In concrete cases, the reference period for assessing a former situation can be 6 or 3 months and not 12 months, as recommended. In the case of censuses or surveys, retrospective questions may relate to the place of residence five years ago, at the last census, at the time of a significant historical event, as well as at the time of birth (that is, at the country of birth). In all these variants, existing models may help in estimating the number of migrations and migrants, based on the recommended 12-month criterion.

Annex II: International glossary

Term	Definition	Source
Asylum-seekers	Persons who have applied for asylum or refugee status, but have not yet received a final decision on their application. A distinction should be made between the number of asylum-seekers who have submitted an individual request during a certain period ("asylum applications submitted") and the number of asylum-seekers whose individual asylum request has not yet been decided at a certain date ("backlog of undecided or pending cases").	UNHCR, see www.unhcr.org/45c06c662.html#asylum-seekers
Asylum-seekers	Persons who file an application for asylum in a country other than their own. They remain in the status of asylum-seeker until their application is considered and adjudicated.	UN DESA, 1998
Availability of data	Data that have been collected, filed, processed and stored in each system, thus civil registration and vital statistics are accessible in a user-friendly format to users upon request.	UN DESA, 2001a
Border workers	Persons commuting between their country of usual residence (which is usually their country of citizenship as well) and their place of employment abroad.	UN DESA, 1998
Circular migration	The fluid movement of people between countries, including temporary or long-term movement that may be beneficial to all involved, if occurring voluntarily and linked to the labour needs of countries of origin and destination.	IOM, 2011
Citizenship	Legal nationality of a person.	UN DESA, 2001a
Civil register	Loose-leaf file, ledger book, electronic file or any other official file set up for the permanent recording, in accordance with established procedures, of each type of vital event and its associated data occurring to the population of a well-defined area (such as a county, district, municipality and parish).	UN DESA, 2001a
Country of usual residence	The country where a person lives, that is to say, the country where he or she normally spends the daily period of rest. Temporary travel abroad for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage does not change a person's country of usual residence.	UN DESA, 1998
Descendants of foreign-born	The group of persons born in the country whose parents were born abroad (This group is often referred to as the "second generation").	UNECE, 2006
Development	A process of improving the overall quality of life of a group of people, particularly expanding the range of opportunities open to them.	IOM, 2010
Excursionists (also called "same-day visitors")	Persons who do not reside in the country of arrival and stay for just a day without spending the night in a collective or private accommodation within the country visited. This category includes cruise passengers who arrive in a country on a cruise ship and return to the ship each night to sleep on board, as well as crew members who do not spend the night in the country. It also includes residents of border areas who visit the neighbouring country during the day to shop, visit friends or relatives, seek medical treatment or participate in leisure activities.	UN DESA, 1998

Term	Definition	Source
Family-based settlers	Foreigners selected for long-term settlement because of the family ties they have with the citizens or foreigners already residing in the receiving country.	UN DESA, 1998
Forced migration	A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (such as movements of refugees and internally displaced persons, as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine or development projects).	IOM, 2011
Foreign population of a country	All persons who have that country as country of usual residence and are citizens of another country.	UN DESA, 1998
Foreign students	Persons admitted by a country other than their own for the specific purpose of following a particular programme of study in an accredited institution of the receiving country.	UN DESA, 1998
Foreign-born population of a country	All persons who have that country as the country of usual residence and whose place of birth is located in another country.	UN DESA, 1998
Foreigners having the right to free establishment	Foreigners who have the right to enter, stay and work within the territory of a country other than their own by virtue of an agreement or treaty concluded between the country of citizenship and the country they enter.	UN DESA, 1998
Foreigners in transit	Persons who arrive in the receiving country but do not enter it formally because they are on their way to another destination.	UN DESA, 1998
Foreigners whose status is regularized	Foreigners whose entry or stay has not been sanctioned by the receiving State or who have violated the terms of their admission but who are nevertheless allowed to regularize their status. Although most persons regularize their status have already been present in the receiving country for some time, their regularization may be taken to represent the time of their official admission as international migrants.	UN DESA, 1998
Human Development Index	The Human Development Index is a summary composite index that measures a country's average achievements in three basic aspects of human development: health, knowledge and income. It was first developed by the late Pakistani economist Mahbub ul Haq in collaboration with the Nobel laureate Amartya Sen and other leading development thinkers for the first Human Development Report in 1990. It was introduced as an alternative to conventional measures of national development, such as level of income and the rate of economic growth.	UNDP (see http://hdr.undp.org/en/statistics/hdi/)
Internal migration	A movement of people from one area of a country to another area of the same country for the purpose or with the effect of establishing a new residence. This migration may be temporary or permanent. Internal migrants move but remain within their country of origin (such as rural–urban migration.)	IOM, 2011

Term	Definition	Source
Internally displaced persons	Persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, particularly as a result of or to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border.	UN, 1998
International movement rate	The sum of total stock of immigrants into and emigrants from a particular country, expressed as a percentage of the sum of that country's resident population and its emigrant population.	UNDP, 2009
Irregular migrants	Non-citizens, excluding refugees or asylum-seekers who have no valid leave to enter and/or remain within a State.	The Human Rights of Irregular Migrants in Europe. Commissioner for Human Rights, Council of Europe, CommDH/IssuePaper (2007)1
Irregular migration	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is the entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfill the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term "illegal migration" to cases of smuggling of migrants and trafficking in persons.	IOM, 2011
Long-term migrants	Persons who move to a country other than that of their usual residence for a period of at least a year (12 months), so that the destination country effectively becomes the new country of usual residence. From the perspective of the country of departure, such persons will be long-term emigrants, and from that of the country of arrival, the persons will be long-term immigrants.	UN DESA, 1998
Migrant workers	Persons admitted by a country other than their own for the explicit purpose of exercising an economic activity remunerated from within the receiving country. Some countries distinguish several categories of migrant workers, including: (a) seasonal migrant workers; (b) contract workers; (c) project-tied workers; and (d) temporary migrant workers. All these subcategories or any others that may exist should be added up and reported under "migrant workers", making the appropriate distinctions with regard to duration of stay.	UN DESA, 1998
Migrants for family reunification or family formation	Foreigners admitted because they are immediate relatives or the fiancées of citizens or other foreigners already residing in the receiving country. Foreign children adopted by citizens or foreign residents and allowed to enter the country are also included in this category. The definition of immediate relatives varies from one case to another, but it usually includes the person's spouse and minor children.	UN DESA, 1998

Term	Definition	Source
Migrants for settlement	Foreigners granted the permission to stay for a lengthy or unlimited period, and are subject to virtually no limitations regarding the exercise of an economic activity. Some countries grant settlement rights to foreigners on the basis of certain criteria.	UN DESA, 1998
Net migration	Net number of migrants, that is, the number of immigrants minus the number of emigrants. It is expressed in thousands.	UN DESA glossary (see http://esa.un.org/unpd/wpp/General/GlossaryDemographicTerms.aspx)
Net migration rate	The number of immigrants minus the number of emigrants over a period, divided by the person-years lived by the population of the receiving country over that period. It is expressed as net number of migrants per 1,000 population.	UN DESA glossary (see http://esa.un.org/unpd/wpp/General/GlossaryDemographicTerms.aspx)
Nomads	Persons without a fixed place of usual residence who move from one site to another, usually according to well-established patterns of geographical mobility. When their trajectory involves crossing current international boundaries, they become part of the international flows of people. Some nomads may be stateless persons because, lacking a fixed place of residence, they may not be recognized as citizens by any of the countries through which they pass.	UN DESA, 1998
Persons admitted for other humanitarian reasons	Foreigners who are not granted full refugee status but are nevertheless admitted for humanitarian reasons because they find themselves in refugee-like situations.	UN DESA, 1998
Population	(1) All the inhabitants of a given country or area (such as province, city or metropolitan area) considered together; the number of inhabitants of a country or area. (2) In sampling, the whole collection of units (such as persons, households, institutions and events) from which a sample may be drawn.	UN DESA, 2001a
Population	De facto population in a country, area or region as of 1 July of the year indicated. Figures are presented in thousands.	UN DESA glossary (see http://esa.un.org/unpd/wpp/General/GlossaryDemographicTerms.aspx)
Quality of data	In the civil registration system or in the vital statistics system, quality of data is measured according to their degree of completeness, correctness (accuracy), timeliness and availability.	UN DESA, 2001a
Refugees	Person who – owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion – are outside the country of nationality and are unable or, owing to such fear, unwilling to avail of the protection of that country.	Convention relating to the Status of Refugees, Article 1A(2), 1951 as modified by the 1967 Protocol

Term	Definition	Source
Remittances	Defined as the sum of workers' remittances (that is, current private transfers from migrants staying in a country for a year or longer to households in another country), compensation of employees (that is, the entire income of a migrant staying in the host country for less than a year) and migrants' transfers (that is, the transfer of household effects and financial assets that are at the time when a migrant changes one's country of residence).	Ratha, 2003
Repatriating asylum-seekers	Citizens returning after having attempted to seek asylum abroad. In principle, this category includes persons who return after their asylum cases have been decided negatively, as well as persons who may not have been able to apply for asylum but who stayed abroad under temporary protection for some time.	UN DESA, 1998
Repatriating refugees	Citizens returning after having enjoyed asylum abroad. Both refugees returning under internationally assisted repatriation programmes and those returning spontaneously are included in this category.	UN DESA, 1998
Returning migrants (or citizens)	Persons returning to their country of citizenship after having been international migrants (whether short-term or long-term) in another country and who are intending to stay in their own country for at least a year.	UN DESA, 1998
Seasonal migrant workers	Persons employed by a country other than their own for only part of a year because the work they perform depends on seasonal conditions. They are a subcategory of "foreign migrant workers".	UN DESA, 1998
Short-term migrants	Persons who move to a country other than that of their usual residence for a period of at least three months but less than a year (12 months), except in cases where the movement to that country is for purposes of recreation, holiday, visits to friends or relatives, business, medical treatment or religious pilgrimage). For purposes of international migration statistics, the country of usual residence of short-term migrants is considered to be the destination country during the period they spend in it.	UN DESA, 1998
Smuggling of migrants	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State party of which the person is not a national or a permanent resident.	Art. 3(a), United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 2000
Stateless persons	Persons who are not recognized as citizens of any State.	UN DESA, 1998

Term	Definition	Source
Trafficking in persons	The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.	Art. 3(a), United Nations Protocol to prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 2000
Tourists	Person who does not reside in the country of arrival and are admitted to that country under tourist visas (if required) for purposes of leisure, recreation, holiday, visit of friends or relatives, health or medical treatment or religious pilgrimage. They must spend at least a night in a collective or private accommodation in the receiving country, and their duration of stay must not surpass 12 months.	UN DESA, 1998
Visitors	Person who do not reside in the country of arrival and are admitted for short stays for purposes of leisure, recreation, holidays, visits to friends or relatives, business or professional activities not remunerated from within the receiving country, health treatment or religious pilgrimages. Visitors include excursionists, tourists and business travelers.	UN DESA, 1998

Annex III: Key international instruments

Table 55: International conventions pertaining to migration

Short-form treaty name	Status*	Brief description
United Nations Convention against Transnational Organized Crime	Acceded 21 March 2012	Base convention for the Palermo Protocols.
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	Acceded 2 November 2011	Stipulates required and suggested steps to prevent, suppress and punish trafficking in persons; sets legal definition thereof.
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	Not a party	Requires criminalizing facilitating illegal migration.
International Covenant on Civil and Political Rights	Not a party	Sets basic civil and political rights that are to be ascribed to all persons without discrimination.
Convention on the Elimination of All Forms of Discrimination against Women	Acceded 2004; declaration made upon accession	Obliges all appropriate measures to suppress trafficking in women and exploitation of women through prostitution.
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Not a party; most rights within already guaranteed to non-citizens under the Constitution of the Federated States of Micronesia	Establishes the definition of migrant worker and ascribes basic rights and equalities in relation to their treatment by government.
Convention on the Rights of the Child	Acceded 1993	Establishes basic protections for, and rights of children.
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	Signature in 2002, acceded in 2012	Obliges prohibition of a range of exploitative practices against children, including trafficking, child prostitution and the sale of children – important for trafficking in persons.
Convention on the Rights of Persons with Disabilities	Signature in 2011; no accession	Obliges parties to undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.
Worst Forms of Child Labour Convention	N/A – Federated States of Micronesia is not a member of the International Labour Organization	Obliges immediate measures to prohibit and eliminate worst forms of child labour; trafficking included among “worst forms of child labour” defined.
Refugee Convention and 1967 Protocol	Not a party	Establishes minimum State obligations towards asylum-seekers.
Convention relating to the Status of Stateless Persons and Convention on the Reduction of Statelessness	Not a party	Steps to reduce potential and actual statelessness.

Note: * Status compiled from UN Treaty Collection www.ilo.org/dyn/normlex/en/f?p=1000:11001:0:NO:: (Accessed April/May 2015).

Annex IV: 2008 United States Census Bureau Surveys

The 2008 US Census Bureau received about USD 1.3 million from the US Department of the Interior's Office of Insular Affairs (OIA) to do the quinquennial surveys of Micronesian migrants. This figure was about four times what the OIA provided for the 2003 surveys. The earlier surveys used the snowball method. The Census Bureau rejected the snowball method, the method used in the previous surveys, and a method approved by the Government Accountability Office. Instead, for Hawaii, the Census Bureau used data collected in the American Community Survey (ACS) for an aggregated three years before 2008, so centred about 2006. And, for Guam and Saipan, the Bureau obtained census blocks by randomly selecting areas defined for the 2000 census and doing complete enumeration within those blocks. Non-Micronesian households were discarded.

Table 56 shows the estimates obtained from the two methods: (a) Hawaii data centred on 2006; and (b) Guam and Commonwealth of the Northern Mariana Islands (CNMI) data collected late in 2008. The estimates were 12,300 (38%) for Hawaii, 18,300 (56%) for Guam and 2,100 (6%) for Saipan. These estimates were used for the distribution of the annual USD 30 million the US Congress funded to offset the costs of providing social and educational services to the affected areas. However, when the margin of error is included, Hawaii's population could have been as much as 15,050 and Guam's as low as 14,900, so by the figures obtained, Hawaii's population of Micronesian migrants could have actually been larger than Guam's.

Table 56: Estimates of Compact of Free Association migrants in all areas, 2008

Jurisdiction	Estimate	Margin of error
Total	32,735	...
Hawaii	12,315	+/- 2,736
Guam	18,305	+/- 3,429
CNMI	2,100	+/- 511
American Samoa	15	(NA)

Source: US Census Bureau, 2005–2007 American Community Survey (Hawaii), 2008. Survey of Migrants to Guam and Saipan, 2000 Census (other CNMI and American Samoa).

The Census Bureau's position is that the snowball method does not provide the variance/sampling error, and therefore, the methods of using the ACS in Hawaii and the random sampling of geographic units in Guam and Saipan, even though the dates differ and so do not provide completely comparable figures for the three areas, and, using Micronesians from any area and non-Micronesians doing the actual enumeration, and the enumeration of very small numbers – that all of this is preferable to the methods used successfully in 1992/1993, 1997/1998 and 2003.

The Census Bureau also received funding for the next round of surveys in 2013. In this case, OIA and the Census Bureau decided to use the 2010 census results for Guam and CNMI, and five-year averages for the ACS. If the average centres on 2010 for Hawaii, the results are more likely to be comparable. However, it should be noted that while the Compacts require surveys at no more than five-year intervals, until this most recent series, OIA chose to do them at five-year intervals. The 2013 series, based on data from 1 April 2010, are only one and half years after the 2008 round, and so will not show as much change. The data have not been released at this point.

The Census Bureau sent a Public Use Microdata Sample (PUMS) of Guam's survey to Guam's Bureau of Statistics and Plans. Although it is called a sample, it looks like all the data were included but anonymized. In any case, using the weights provided, for migrants of the Federated States of Micronesia, 13,000 (about 77%) were born in the Federated States of Micronesia (Table 57). The table shows almost 17,000 enumerated in the weighted population. The impact population is composed of two parts: (a) migrants who came to Guam after the 1986 implementation of the Compact of Free Association (COFA); and (b) all children of migrants, whether they arrived before or after implementation since it was impossible to tell when the parents of the children migrated in many cases. Hence, of the 16,400 migrants, 10,100 (62%) were impact adults, and 6,200 were impact children.

Table 57: Migrants in Guam by population type, 2008

Population	Total	Born in the Federated States of Micronesia	Others
Total	16,942	13,019	3,923
Impact population	16,358	12,435	3,923
Impact adults	10,143	10,143	0
Impact children	6,215	2,292	3,923
Other Freely Associated States	584	584	0

Source: 2008 COFA Guam PUMS.

Table 58 shows the distribution of the population born in the Federated States of Micronesia by year of entry into Guam, again weighted by the small number actually enumerated. Of the 13,000 migrants born in the Federated States of Micronesia, only 600 (about 4%) arrived before 1986, the year of the Compact. About one in five came between 1986 and 1993, and about three in four arrived in 1994 or later. These categories are shown because these are the categories identified in the survey.

Table 58: Migrants born in the Federated States of Micronesia by year of arrival in Guam, 2008

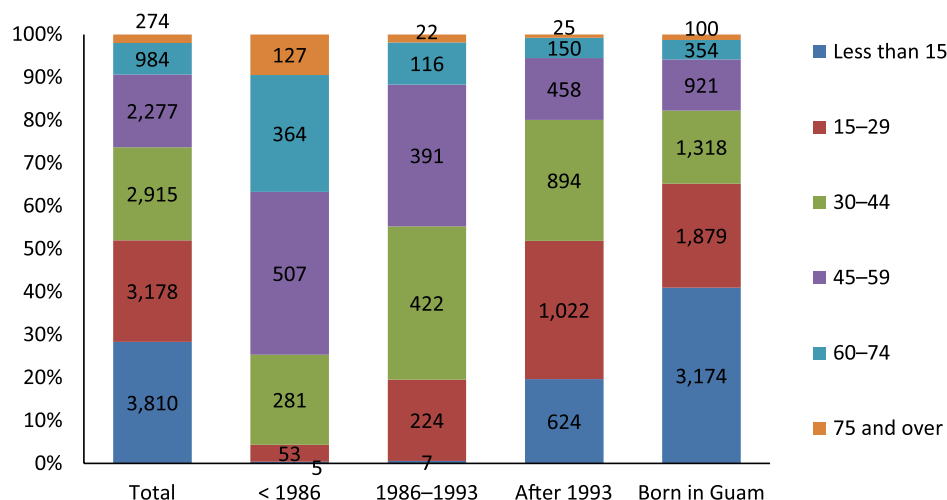
Year of arrival	Total	Per cent
Total	13,019	100.0
Before 1986	584	4.5
1986 to 1993	2,473	19.0
1994 or later	9,962	76.5

Source: US Census Bureau 2008 COFA Survey PUMS.

Note: Impact children born in US area allocated to parent's birthplace.

Again, while taking into account the very small sample size (and so huge sampling error), there is a feel for the distribution by age of the migrants by the time of arrival in Guam. Obviously, the flows by year are age dependent. Figure 31 shows that as we go back in time, the ages get older for the migrants.

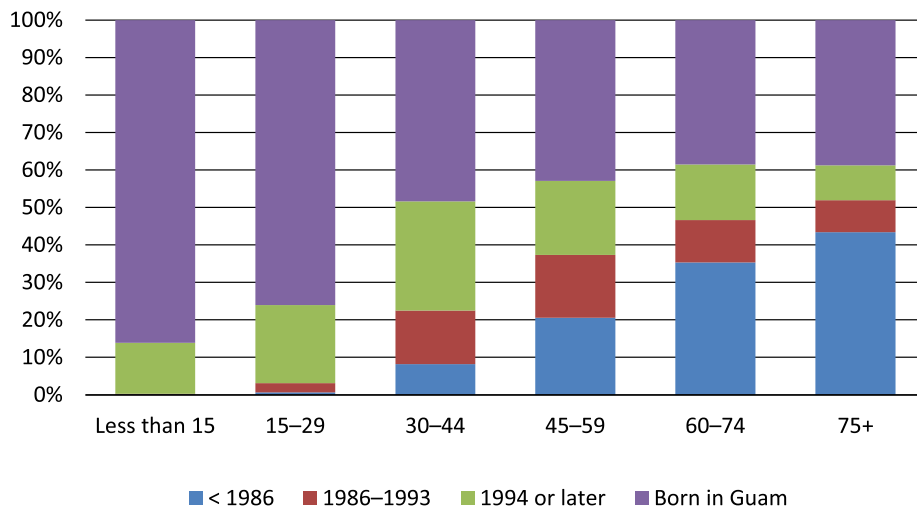
Figure 31: Age by year of entry in Guam, 2008



Source: 2008 United States Bureau of Census Survey of Micronesian migrants.

When the columns and rows are switched, the flows are seen in a different way, as in Figure 32. The years of immigration stack, and it is observed that the older the migrants, the earlier they tended to come.

Figure 32: Year of immigration by age group in Guam, 2008



Source: 2008 United States Bureau of Census Survey of Micronesian migrants.

The 2008 survey, like the previous surveys, was done by household. Hence, many non-migrants were included. As Table 59 shows, of those enumerated as Micronesian in the survey, almost 5,000 were born in neither Guam nor the Freely Associated States. Only 28 were born in the Marshall Islands, and 196 in Palau, but 1,419 were born in the Federated States of Micronesia. The others – more than half of those enumerated in the 2008 survey – were born on Guam. Again, some of these were not Micronesian migrants.

Table 59: Age by birthplace in Guam, 2008

Age group	Birthplace					
	Total	Federated States of Micronesia	Marshall Islands	Palau	Guam	Others
Total	12,590	1,419	28	196	7,582	4,784
Less than 15	3,681	184	3	18	3,178	482
15-29	2,922	532	12	27	1,844	1,039
30-44	2,690	456	8	61	1,241	1,380
45-59	2,128	202	4	59	880	1,185
60-74	911	36	1	24	341	545
75 and over	258	9	0	7	98	153

Source: 2008 United States Bureau of the Census Survey of Micronesian migrants.

The 2008 Micronesian surveys, including the running of tables from the Hawaii American Community Survey, was by far the most expensive enumeration of Micronesians inside or outside of Micronesia – more expensive than any of the within Micronesia full censuses and much more expensive than any of the previous survey rounds. In fact, this survey series was more expensive than the 1992, 1997 and 2003 rounds combined. Nonetheless, while the data and results were very limited, they are one more piece in the Micronesian migration puzzle.

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