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Third cycle Universal Periodic Review of the Federated States of Micronesia



Joint Submission of the UN Country Team Fiji

Abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPPED	Convention for the Protection of all Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
CYPFW	Children Young People and Family Welfare
EVAW	End Violence Against Women
GBV	Gender-based violence
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MPDSR	Maternal and Perinatal Death Surveillance and Response
NGO	Non-governmental organisations
NHRTF	National Human Rights Task Force
NMRF	National Mechanism for Reporting and Follow-up
OHCHR	Office of the High Commissioner for Human Rights
OP-CRC-AC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
SOP	Standard Operational Procedures
SP	Special Procedures
SR	Special Rapporteur
UN	United Nations
UPR	Universal Periodic Review

Introduction

This is a joint submission of the UN Country Team Fiji led by the Resident Coordinator's Office and the United Nations Pacific Strategy Outcome Group 6 on human rights. The information contained in this submission is based on the input of the UN agencies working on the Federated States of Micronesia. While efforts have been made to assess the implementation of the past UPR recommendations for the Federated States of Micronesia, this submission does not cover a comprehensive review of the human rights situation in the Federated States of Micronesia. The UN Country Team in Fiji includes FAO, ILO, IOM, UNICEF, UNDP, UN WOMEN, WHO, UNHCR, OCHA, UNFPA, UNESCO, UNISDR, UNODC, WFP, WMO, OHCHR, UNOPS, UNHABITAT, UNESCAP, UN Environment Programme, UNAIDS, UNIDO, UNCDF, and UNV.

IMPLEMENTATION OF THE ACCEPTED RECOMMENDATIONS FROM THE PREVIOUS CYCLE

A. Treaty ratification/accession, reporting and cooperation with UN human rights mechanisms

- ***Acceptance of international norms***

1. As of June 2020, the Federated States of Micronesia (FSM) is party to three of the nine core international human rights treaties, namely CEDAW, CRC, and CRPD. FSM has also ratified the Optional Protocol to the CRC on the involvement of children in armed conflict and the Optional Protocol to the CRC on the sale of children child prostitution and child pornography.

2. In 2015, FSM was reviewed under the 2nd UPR cycle and accepted recommendations by UN Member States related to the ratification of the remaining core international core human rights treaties¹. While FSM indicated its commitment to continue reviewing and considering the ratification of human rights treaties within the context of its resources and priorities, no new treaties have been ratified since 2015.

3. FSM supported the recommendations made during the 2nd UPR cycle to consider studying the possibility of applying for membership of the ILO,² with a view to ratifying its fundamental conventions. As of June 2020, FSM has yet to become a Member State of the ILO.

4. While FSM supported the recommendations made during the 2nd UPR cycle to ratify the Rome Statute of the International Criminal Court,³ no progress has been made.

5. FSM has not acceded to the Convention on the Prevention and Punishment of the Crime of Genocide.

Recommendations

- *Consider ratifying the remaining core international human rights treaties;*
- *Consider ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;*
- *Consider applying for membership of the ILO, with a view to ratifying the fundamental ILO conventions and other relevant Conventions;*
- *Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide;*
- *Consider ratifying the Rome Statute of the International Criminal Court.*

- ***Cooperation with the UN human rights mechanisms***

6. FSM has made some progress in fulfilling its reporting obligations under the two human rights treaties to which it is a State party. It submitted its combined initial to third periodic report to CEDAW in 2015 and was reviewed in 2017, and it submitted its second periodic report to the CRC in 2018 and was reviewed in March 2020 during the CRC extraordinary session in Samoa.

7. However, the initial State Party report to the CRPD Committee is overdue since January 2019. In 2018, the OHCHR Regional Office for the Pacific assisted the Ministry of health to hold a national disability forum with a view to commence the drafting of the initial report under the CRPD.

¹ Recommendations 62.27; 62.28; 62.29; 62.30; 62.31; 62.3; 62.3; 62.1; 62.12; 62.21; 62.2; 62.6; 62.7; 62.14; 62.13; 62.4; 62.8; 62.9; 62.10; 62.11; 62.20; 62.22; 62.26; 62.15; 62.5.

² Recommendation 62.35.

³ Recommendations 62.32; 62.33; 62.34.

8. To ensure that its reporting obligations to the international human rights mechanisms are met, FSM has established a Human Rights Task Force by Presidential Order in 2015, comprised of representatives from Departments of Health and Social Affairs, Justice, Resources and Development, and Education; the Division of Statistics; and non-governmental organizations. However, FSM has yet to establish a fully functioning National Mechanism for Reporting and Follow-Up (NMRF).

9. FSM has not extended a standing invitation to Special Procedures mandate holders of the Human Rights Council to visit. In 2015, FSM indicated that the issuance of a standing invitation is under discussion. The Working Group on the issue of discrimination against women in law and practice requested to visit FSM in 2016.

Recommendations

- *Submit the initial report to the CRPD Committee without further delay;*
- *Widely disseminate the recent concluding observations by the CRC and CEDAW and develop a national action plan to implement the recommendations therein, with responsibilities assigned to relevant ministries and a system to keep track of progress;*
- *Ensure the effective functioning of the Human Rights Task Force while working towards establishing a fully functioning National Mechanism for Reporting and Follow up;*
- *Consider issuing a standing invitation to the Special Procedures of the Human Rights Council.*

B. Legal and policy reform

10. Ensuring the compliance of domestic legislation with international human rights obligations remains a challenge due to the federal structure of FSM, with the four states (namely Chuuk, Kosrae, Pohnpei and Yap) each having their own government and laws. During the previous UPR cycle in 2015, the government of FSM expressed its commitment to work with the four state governments to enact laws to implement its international human rights obligations. While noting its limited capacity to enact implementing legislation, it indicated its willingness to continue seeking technical and financial assistance to collect and analyze data on human rights issues, carry out advocacy work on human rights, and implement appropriate policy and legislative reforms.⁴

11. In its submission for the previous UPR cycle, UNCT recommended that the constitution be amended to include gender, sexual orientation and disability as grounds for non-discrimination. According to information available, no progress has been made in this regard.

12. Noting that federal and state-level legislation continues to include discriminatory provisions, especially in relation to gender-based violence against women, the CEDAW Committee also recommended that the government of FSM harmonize laws, including statutory and customary laws, with international human rights standards. In 2017, the Pohnpei State Legislature passed the Domestic Issues Act, which sets out mechanisms and procedures to address incidents of domestic violence. The legislature of Yap has also drafted a Domestic Violence Bill, which is being reviewed. An implementation plan has been developed for the Kosrae Family Protection Act 2014 and has been submitted to the Kosrae Attorney General's office for review. However, federal legislation criminalizing violence against women has yet to be adopted.

⁴ A/HRC/31/4/Add.1, 62.36-62.77.

13. In January 2018, the President approved the National Gender Policy (2018 – 2023), which focuses on six goals: better representation of women in decision-making; elimination of gender-based violence; improved education outcomes; addressing barriers faced by women in the workforce; better health care and improved choices over women's fertility; mainstreaming gender across government to consider the impacts of policies and programmes on women and men, girls and boys.

14. On 29 August 2019, the Pohnpei State Legislature passed a Disability Act, the first state to do so. Consultations are reportedly underway to update the Disability Policy, which expired in 2016.

15. In 2018, the President endorsed the National Youth Policy (2017–2023).

Recommendations

- *Expedite the law reform process to harmonize federal and national laws with international human rights standards;*
- *Adopt a Child Protection Policy with a multi-sectoral implementation plan at national and state levels;*
- *Adopt a Disability Policy in line with CRPD;*
- *Ensure that policies adopted to promote and protect human rights, including those related to women's rights, children's rights and persons with disabilities, are clearly in line with international human rights standards and that they are supported by sufficient human, technical and financial resources, and with clear monitoring and evaluation mechanisms.*

Cross-cutting issues

- *Discrimination against women, domestic violence, sexual and gender-based violence (GBV)*

16. Currently, no information is available on the progress made to ensure that the domestic legislation define discrimination on the basis of sex, as recommended by the CEDAW Committee in 2017.

17. During the previous UPR cycle, FSM noted the recommendations to withdraw the reservations to CEDAW. FSM maintains its reservations to articles 2(f), 5, 11(1)(d), 11(2)(b), 16 and 29(1) of CEDAW. In December 2017, the FSM Congress discussed a resolution to rescind all reservations to CEDAW as they were no longer necessary. To date, the resolution has not been adopted.

18. With regard to women's participation in public and political life, FSM supported the recommendations made during the 2nd UPR cycle to implement gender quotas for candidates presented for election by political parties, and to pursue efforts to increase women's representation and leadership in the decision-making bodies both at the political and economic levels. There has never been a woman elected to the National Congress, but in 2017, one woman was elected in Chuuk State and one in Pohnpei. Women continue to be absent or grossly under-represented at the legislative and executive levels of government. In 2018, the Congress introduced a bill aimed at guaranteeing representation for one woman from each state as a non-voting member. However, the bill has yet to be adopted.

19. While FSM has adopted measures to eliminate gender-based discrimination and gender-based violence against women, including by completing a Gender Stocktake in 2012 and a Family Health and Safety Survey in 2014, violence against women remains prevalent. Significant barriers for women's access to justice remain, including open court sessions in public with the victim having to face the perpetrator. According to the results of the Family Health and Safety Survey, victims of violence and abuse remain silent as they believe that they cannot get out of the situation, or that such violence is normal. In addition to the issue of under-reporting of GBV, the police reportedly continue to treat domestic violence as a family matter. Support for survivors of GVB also remain insufficient, as the FSM Health Facility Readiness and Service Availability assessment conducted in November 2018 found that no health facilities have the minimum required standards to assist survivors of violence.

20. In 2019, the Government supported the development of the National Ending Violence Against Women Policy (EVAW Policy), although this is not yet officially endorsed. However, State Action Plans have been developed and endorsed in Yap, Pohnpei, Kosrae and Chuuk States. As a key action under the EVAW Policy, the Government supported assessments of the referral pathways for survivors of violence through the health system in all four States of FSM in 2019, which enabled the development of Protocols to support health sector responses to GBV in each of the four states.

21. Currently, discussions are underway between the FSM Government, UNICEF and UNFPA regarding support for a hybrid Demographic Health Survey Domestic Violence module/Multi Indicator Cluster survey to determine prevalence rates of violence against women and to identify trends during the past six years.

Recommendations

- *Fully implement the recommendations contained in the 2017 concluding observations of the CEDAW Committee, including by designating specific tasks to relevant ministries, establishing a timeframe and keeping track of the status of implementation of recommendations;*
- *Strengthen efforts to withdraw the reservations to CEDAW;*
- *Step up educational and awareness raising efforts aimed at judges, prosecutors, law enforcement personnel, legal practitioners, traditional leaders, health care providers, social workers and the general public to sensitize them to the fact that all forms of violence against women are unacceptable;*
- *Strengthen measures to ensure women's access to justice, encourage reporting of cases of violence to the authorities, and ensure that victims have access to protection, redress and appropriate support services;*
- *In line with FSM's ICPD25 commitment for zero GBV by 2030, ensure the final endorsement of the EVAW Policy at the National and State levels, and provide adequate funds for implementation;*
- *Increase financial support for the Department of Health and Social Services to ensure effective coordination and implementation of response and prevention programmes to end GBV;*
- *Ensure leadership of the National Disaster Management Office to support the integration of GBV in emergency programming and humanitarian preparedness planning and response efforts, in coordination with the Department of Health and Social Services.*

- **Trafficking in persons**

22. At the federal level, Public Law 17-38 has been enacted in 2012, which creates a new subchapter under the Code of the Federated States of Micronesia defining crimes related to trafficking in persons and related offences. However, it allows for a fine in lieu of imprisonment for sex trafficking crimes, which is not commensurate with penalties for other serious crimes, such as rape. All four states have adopted their own anti-trafficking laws. The laws in Pohnpei and Chuuk states do not explicitly prohibit sex trafficking in adults. Understanding of trafficking remains low among law enforcement officials and the judiciary, and the services and protection offered to victims are insufficient. Recognizing the gendered aspects of the trafficking of women, the EVAW policy operates to build upon existing structure, frameworks and coordination bodies where possible to avoid duplication of efforts.

23. While forced labour is prohibited under law and the government enforces basic standards for working conditions in the formal employment sector, foreign migrant workers remain vulnerable to exploitative labour conditions, including in restaurants and on foreign fishing vessels under the territorial jurisdiction of FSM. Women and girls reportedly continue to be exploited in prostitution, including in docked fishing vessels and on vessels in the territorial waters of FSM.

Recommendations

- *Harmonize anti-trafficking legislation at both federal and state levels with international standards and ensure that penalties are commensurate with the gravity of the crime;*
- *Step up efforts to train law enforcement officials, members of the judiciary and those in the legal profession to effectively combat trafficking and forced labour in a victim-sensitive manner;*
- *Effectively investigate cases of forced labour, ensure that perpetrators held accountable and punished with penalties commensurate with the gravity of the crime, and provide effective remedies to victims.*

• *Climate change and environment*

24. FSM supported the recommendation made during the 2nd UPR cycle to incorporate human rights considerations in the measures that are adopted to counter climate change,⁵ and to combat the negative consequences of climate change.⁶

25. FSM's Nationwide Integrated Disaster Risk Management and Climate Change Policy (June 2013) complements the FSM's Strategic Development Plan (2004–2023) and was developed in recognition of the need to safeguard the development of the FSM's people, resources and economy against the risks posed by climate change. The policy is intended to serve as a guiding tool for meetings during discussions of regional and international treaty obligations and objectives that the FSM has accepted, such as those pursuant to the United Nations Framework Convention on Climate Change (UNFCCC). FSM hosts an annual State and National Leadership Conference, where national priorities related to the National Strategic Development Plan and Sustainable Development Goals are discussed.

26. FSM ratified the Doha Amendment to the Kyoto Protocol to the UNFCCC in January 2014. All four states and the FSM National Government have established Emergency Operations Centres that serve as central meeting and communication points during an environmental emergency.

⁵ 62.92

⁶ 62.93

27. FSM has received funding from the International Organization for Migration (IOM) to address climate change disaster risk reduction and mitigation steps for climate change response in its school system. Kosrae State incorporated climate change information into its school curricula in 2013. As part of its recycling initiatives, Yap State completely banned the use of plastic bags. The annual Micronesian Presidents' Summit brings together the Presidents of Palau, the Marshall Islands, and the FSM to dialogue on common pressing issues such as climate change. The communiqué from their July 2015 meeting notes that "the Presidents called on all nations of the world to take necessary action to limit global warming to below 1.5 degrees, as called for by the Alliance of Small Islands States and other vulnerable countries."

28. The Agriculture Policy (2012–2016) guides public and private sector actions for sustainable agricultural growth. The policy recognizes the developmental potential in fishers and agriculture and the importance of traditional farming to improve livelihoods.

Recommendations

- *Ensure that policies and measures to counter the effects of climate change adopt a human-rights based approach, including gender responsive climate action, by ensuring the participation of affected groups in decision-making processes related to climate change policies; addressing the specific needs and rights of individuals who are disproportionately affected by climate change; and undertaking an assessment of how the enjoyment of human rights will be affected by climate change and taking appropriate action to ensure that related rights are effectively protected;*
- *Continue to take an active role at national, regional and international levels to garner international support to combat climate change.*

C. Civil and political rights

• Access to information

29. During the previous UPR cycle, FSM supported the recommendation to adopt a law on access to information in accordance with international standards. Based on available information, such a law has yet to be adopted.

Recommendations

- *Adopt a law on access to information in accordance with international human rights standards.*

D. Economic, social and cultural rights

• Social security

30. FSM supported the recommendation made during the 2nd UPR to put in place a broader social safety net designed to cover all segments of society, notably persons working in the informal sectors as well as vulnerable persons; and to strengthen its social policies to raise the quality of life of its people. While a range of social security programmes is in place, they only benefit those who have worked in the formal economy, and many people therefore continue to be excluded from social security benefits.

Recommendations

- *Step up efforts to put in place a broader social safety net to cover all segments of society, particularly persons working in the informal sector, including domestic workers;*
- *As part of the socio-economic response to COVID-19, adopt social protection systems and packages which take into account the specific needs of women and persons with disabilities.*

- ***The right to health***

31. FSM supported the recommendation made during the 2nd UPR to combat malnutrition and micronutrient deficiencies by ensuring the right to adequate and healthy food. However, malnutrition continues to be a concern, particularly among young children, due to consumption of unhealthy or inappropriate food. A key constraint in monitoring the health and nutritional status of children and women in the FSM is the lack of a national representative household survey, such as the Demographic and Health Survey (DHS) or Multi Indicator Cluster Survey (MICS) that has been undertaken in several other Pacific Island countries. There is now ongoing discussion between the government and UNICEF and UNFPA regarding support for a hybrid DHS Domestic Violence module/MICS which would also take into account the prevalence of violence against women.

32. According to a study in 2016, 85% of women are accompanied by skilled birth attendance.⁷ Maternal mortality ratio declined significantly from 161/100,000 live births in 2010 to 43/100,000 live births in 2016. However, there is a need to improve the monitoring of maternal deaths to ensure that no deaths are missed. Perinatal mortality rate is very high, estimated at 28.7 per 1,000 live births,⁸ signifying the need to improve the quality of maternal health care.

33. With nearly 24% of the population currently under the age of 15, women and men of reproductive age represent a growing and significant proportion of the population. Despite the need to ensure access to comprehensive sexual reproductive health services, including family planning, a study conducted in November 2018 indicated that the range of methods offered by health facilities was limited, with only male condoms and injectables available at most of the facilities.⁹ Most facilities had staff trained in modern family planning methods, but only 15 facilities had staff trained in implant insertion.

Recommendations

- *Establish a reliable data collection system, including the MICS, to assess the health status of the population, including health and nutritional status of children and women, and to adopt appropriate measures to realize the right to health for all;*
- *Step up measures to ensure access to healthy affordable food, particularly by children;*
- *Ensure universal access to health care services, including sexual and reproductive health care services and access to modern contraceptive methods to ensure that there is no unmet need for family planning as well as maternal deaths which may be preventable.*

- ***The right to education***

⁷ FSM National Health Sector Performance Indicators and Scorecard, 2016.

⁸ FSM Reproductive Health Needs Assessment, 2017.

⁹ FSM Health Facility Readiness and Service Availability Assessment, November 2018.

34. Primary education is free and compulsory for all children in FSM. In 2015, education goals in the strategic development plan were revised to focus on improving the quality of education. However, the CRC Committee in its concluding observations of March 2020 noted with concern about the decreasing enrolment and completion rates in primary and secondary schools, as well as the increasing dropout rates among both boys and girls; the regional disparities in the quality of education due to a shortage of qualified teachers and learning resources, particularly in the outer islands; and the lack of measures in place to ensure that pregnant girls and adolescent mothers can remain in school.

35. Quality of educational services remains a key concern. A 2017 UNICEF report found that migration away from the outer islands to state capitals is resulting in schools in urban areas becoming overcrowded and leading to shortages of textbooks and resources. Heavy reliance on donor funding and difficulties associated with providing educational services on remote islands remain key challenges.

36. The Personal Responsibility Programme, which is part of life skills education, promotes abstinence and postponement of sexual activity until later stages of life. Currently, there is no comprehensive sexuality education which enables young people to make informed and responsible decisions related to their well-being and health, including sexual and reproductive health.

Recommendations

- *In line with targets 4.1 and 4.2 of the Sustainable Development Goals, and the recommendations made by CRC and CEDAW, ensure that all girls and boys complete equitable and equality primary and secondary education;*
- *Strengthen efforts to improve the accessibility and quality of inclusive education throughout the country, including by allocating adequate human, financial and technical resources, increasing the number of secondary schools, providing continuous training to teachers and improving school equipment, infrastructure and learning materials, with a particular emphasis on the outer islands;*
- *Analyze the root causes for the drop in enrolment rates in primary and secondary schools and implement appropriate actions to remedy it, including the development and promotion of quality vocational training to enhance the skills of children who drop out of school;*
- *Further develop the Health and Family Life Education to include age appropriate sexual education which would enable young people to make informed and responsible rights decisions in relation to their sexual and reproductive health;*
- *Take measures to keep pregnant girls and adolescent mothers in schools by providing counselling in parenting skills and access to childcare facilities;*
- *Allocate sufficient financial resources for the expansion of early childhood education.*

• Children's rights

37. FSM lacks a comprehensive child protection legislation and a national child protection policy which provides guidance on the delivery of child protection prevention, early intervention and response services for children in need of care and protection, and assigns a government agency to lead and coordinate multi-sector prevention and response to all forms of

violence, abuse, neglect and exploitation of children.

38. In 2019, the FSM Department of Health and Social Affairs, with support from UNICEF, held a multi-stakeholder national child protection orientation and consultation workshop during which a road map for child protection system strengthening was developed, with priority to develop a Child Protection Policy and implementation plan at national and state levels.

39. During the 2nd UPR cycle, FSM supported the recommendations to pass a legislative amendment to raise the minimum age of consent to marriage for girls to 18 years. No such amendment has been adopted, and the laws of Kosrae, Chuuk and Pohnpei continue to establish 18 years as the age of marriage for men and 16 years for girls with parental consent. Customary marriages are valid in Pohnpei and Chuuk and may be conducted without adherence to the legal minimum age for marriage.

40. During the 2nd UPR cycle, FSM supported the recommendation to adopt comprehensive laws against child labour and to set out the minimum age of employment and which protect children from commercial exploitation. Based on available information, no such laws have been adopted to date.

41. According to a 2014 baseline study, the use of corporal punishment in the home against children is common in FSM, as well as physical punishment, bullying and fighting in schools. While FSM supported the recommendation during the previous UPR cycle to prohibit corporal punishment of children in all setting, there is no law explicitly prohibiting corporal punishment.

42. Children in FSM also experience emotional abuse and are exposed to family violence in their home. Child sexual abuse is also prevalent, with 14 to 22 per cent of women in the four states having experienced sexual abuse before 15 years of age. The high number of children living away from their parents is a factor contributing to children's vulnerability.

43. While FSM supported the recommendations made during the 2nd UPR cycle to "put in place a follow-up and evaluation mechanism on the situation of protection of children and to strengthen the institutions working in that area," FSM still lacks such a mechanism as well as a clear government agency with authority to intervene, assess, and protect a child who is suffering or at risk of harm. Additionally, FSM lacks social welfare personnel who can provide management and support services for children who are victims or at risk of violence, abuse, neglect and exploitation to ensure that they are properly assessed, referred to appropriate services, followed-up, and receive adequate support for their recovery. It also lacks a multi-sector coordination mechanism and inter-agency guidelines for child protection at national and state levels.

44. In 2017, UNICEF highlighted the barriers faced by child victims to access justice and for perpetrators to be effectively prosecuted.¹⁰ FSM has yet to introduce special procedures to ensure that investigation and trials involving a child victim or witness are conducted in a child-sensitive manner. Moreover, few members of the judiciary have specific training in handling cases of violence, abuse and exploitation of children.

45. With regard to children in conflict with the law, FSM has limited provisions relating to children such as the use of 'flexible procedures', closed informal sessions with presence of

¹⁰ United Nations Children's Fund (2017). Situation analysis of children in the Federated States of Micronesia. Suva: UNICEF. Available at: https://www.unicef.org/pacificislands/06_Situation_Analysis_of_Children_Micronesia.pdf.

parents or guardians, report by a welfare officer in advance of trial, and a few alternative sentences. There is also a limited range of non-custodial options at pre-trial and sentencing stages, and has outdated provisions on “delinquency” that punish children for status offences of being habitually truant from home or school, not being under the reasonable control of their parents, or being wayward or habitually disobedient. The minimum age of criminal responsibility is established at 10 years of age, which is below the absolute minimum age of 14 years recommended by the CRC Committee.

Recommendations

- *Fully implement the recommendations contained in the concluding observations of the CRC Committee of March 2020 (CRC/C/FSM/CO/2), including by designating specific tasks to relevant ministries, establishing a timeframe and keeping track of the status of implementation of recommendations;*
- *Adopt a comprehensive legislation and policy promoting and protecting the rights of the child in line with CRC;*
- *Adopt a comprehensive child protection policy that is supported by sufficient human, technical and financial resources, and which inter alia provides guidance on the delivery of child protection prevention, early intervention and response services for children in need of care and protection, and assigns a government agency to lead and coordinate multi-sector prevention and response to all forms of violence, abuse, neglect and exploitation of children;*
- *Establish a multi-sector and multi-stakeholder coordination mechanism for child protection at national and state levels;*
- *Enact legislation to raise the minimum age of marriage of girls in Kosrae, Chuuk and Pohnpei to 18 years, and undertake awareness raising campaigns on the legal age of marriage and of the harmful effects of early marriage, especially for girls;*
- *Enact legislation to provide a minimum age of employment and conditions for employment consistent with international labour standards;*
- *Enact legislation and policies to ensure that corporal punishment is prohibited in all settings, including the home and schools;*
- *Raise the minimum age of criminal responsibility to at least 14 years of age;*
- *Enact a comprehensive law governing the child justice system, which is in line with the CRC Committee’s General Comment No.24 (2019) on children’s rights in the child justice system, with explicit provisions on the principle of deprivation of liberty as a last resort and for the shortest appropriate period of time;*
- *Establish special procedural protections and measures to facilitate children’s access to justice and to reduce the trauma of testifying.*

• ***Persons with disabilities***

46. FSM ratified the CRPD Convention in 2016, and its initial report to CRPD was due in January 2019. To date, the report has not been submitted.

47. During the previous UPR cycle, FSM supported recommendations to adopt concrete measures to prevent discrimination against persons with disabilities in the private sector and in access to services such as health and education (62.89), and to grant the Health Department with the human and material resources to enable it to offer adequate services to persons with disabilities (62.90).

48. The FSM Code requires the government to provide educational services to children, including free Special Education for children with disabilities. However, the CEDAW Committee in 2017 expressed concerns about the denial of access to good-quality education by girls with disabilities owing to fear of stigma or prejudices, and lack of accessible school buildings and transportation.

49. According to the Pohnpei Consumer Organisation, which is the only organization that engages with national and state governments on support for persons with disabilities, there are overall gaps in terms of availability, affordability and accessibility of services for persons with disabilities. These include lack of sign language services at hospitals and police stations, as well as lack of appropriate transportation services for persons with disabilities. Concern was also expressed regarding sexual assault of women with disabilities in the workplace.

50. FSM does not have mental health strategies or a mental health act. An assessment in 2017 noted that mental health activities are essential. Both Pohnpei and Chuuk hospitals provide limited mental health services. There is no separate safe space for mental health patients at hospitals, though in 2017 a new mental health wing was being built at Pohnpei Hospital. There have been reports of individuals with mental health issues ending up in jail, reportedly for their own protection.

Recommendations

- *Submit the initial report to the CRPD Committee without further delay;*
- *Ensure the provision of adequate financial, technical and human resources for the effective implementation of CRPD;*
- *Take measures to ensure that the rights of persons with disabilities are fully guaranteed in law and in practice, including by ensuring access to adequate support services such as sign language interpretation, and with explicit references to children with disabilities regarding access to services and right to protection;*
- *Develop social protection schemes targeting participation and inclusion of persons with disabilities;*
- *Ensure quality inclusive education in all schools with adequately trained teaching staff as well as specialized teachers and professionals for individual support;*
- *Expand community-based rehabilitation, early identification and referral programmes to cover all children with disabilities and provide the necessary human, technical and financial support to service providers and families of children with disabilities;*
- *Put measures in place to ensure the protection of children admitted to a mental health facility and that children are not placed in the same ward as adults with mental health issues.*

E. Refugees, asylum-seekers and migrants

51. The national report to the UPR in 2015 noted that discussions were ongoing to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto. These treaties have yet to be ratified.

52. In 2017, the FSM court ordered the government to free four Nepalese refugees who had been detained in Pohnpei for nearly two years under 24-hour security, with limited visitation rights and without legal or consular representation. The government argued that no laws were in

place governing the treatment of refugees, nor was FSM party to international treaties on the issue. However, the judge found that FSM is bound by international law to protect all individuals' inherent dignity and inalienable rights, including the right to seek asylum, and to uphold the principle of *non-refoulement*.

53. FSM citizens immigrate to the United States of America in search of better educational and employment opportunities. Estimates suggest that a third of FSM's population lives in the United States of America. As FSM is a Freely Associated State with the United States of America, visa-free entry is granted to FSM citizens.

54. Due to the lack of employment opportunities in the Outer Islands and the outlying areas of the main islands, there is also internal migration from such areas to urban centres. As a result of impacts of climate change, internal and external migration is expected to increase in the coming years.

Recommendations

- *Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto;*
- *Ensure the protection of the rights of refugees, asylum-seekers and migrants in its domestic legislation and in practice, including by developing a protection sensitive entry system that recognizes their specific needs and provides for differentiated processes.*

F. National Human Rights Institution

55. In 2015, FSM noted the importance of establishing a NHRI, and committed to strengthening existing mechanisms within the national government, including the Gender Development Officer's Desk within the Department of Health and Social Affairs.

56. In 2017, at the request of the government, the Asia Pacific Forum (APF) on NHRIs and the Pacific Community's Regional Rights Resource Team visited FSM to hold national consultations on the establishment of a NHRI and submitted a report to the government, outlining the findings and options to consider. A follow-up scoping mission was conducted in 2019 to consult with government officials and other stakeholders. The report containing recommendations from the scoping study has been shared with the government for consideration.

Recommendations

- *Consider establishing a Paris Principles-compliant NHRI, taking into account the recommendations contained in the scoping study.*
