



JUST ATONEMENT INC.

justice  
hope peace unity equal opportunity  
golden age  
progress sustainability democracy freedom  
human rights harmony civilization

**Just Atonement Inc.**

119 W 24th Street, Second Floor  
New York, New York 10011

Executive Director: [Dave Inder Comar](#)  
Email: [inder@justatonement.org](mailto:inder@justatonement.org)  
Telephone: [+1 646 600 5470](tel:+16466005470)

Just Atonement Inc. (JAI) incites transformative social change by empowering lawyers and law students with the opportunities, training and means to defend democracy, human rights, and a livable planet. JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of the Federated States of Micronesia (FSM).

***Summary of Conclusions***

1. Rising sea levels and increases in temperature caused by climate change continue to impact the FSM. Climate change poses a threat to habitability and the peoples' right to self-determination. Climate change adaptation is an expressed priority of the Government of the FSM, which has developed federal sectoral climate change adaptation policies and strategies; however, implementation has been hindered by a lack of funding and human resources. Furthermore, the FSM's capacity to respond to major disasters without external support is severely limited due to a critical lack of resources. The FSM further lacks a national adaptation plan that provides a strategic, coordinated framework for building climate resilience in the country.
2. Lack of access to potable water and adequate sanitation is a major issue in the FSM, particularly in the outer islands. There is a lack of adequate Government response.
3. Despite increasing Government efforts to prosecute and convict human traffickers, human trafficking is an ongoing issue in the country. Law enforcement and judicial



understanding of trafficking remain low and protection services have been deemed overall inadequate.

4. The FSM continues to see high rates of intimate partner violence and gender-based violence against women. There is inadequate prosecution of perpetrators of sexual violence and a dearth of government services for survivors of gender-based violence.
5. Remote outer islanders lack access to valid birth registration and the Government has no unified national birth registration system.
6. Official corruption and a lack of governmental transparency continue in the FSM. While the Government condemns corruption, there is no government agency specifically tasked with the responsibility for combating corruption.

### *Analysis*

#### *Climate Change*

7. The FSM is highly exposed to climate change and natural disaster risks. **The breakdown and collapse of the Earth's climate system is imminent and may have already commenced.** As a small island nation with low-lying atoll islets, the FSM is one of the world's most vulnerable states to the consequences of climate change.
8. Temperatures have risen and will continue to rise in the FSM as a result of climate change. Air temperature and sea surface temperature are projected to continue to increase. Increases in temperature and intensified extreme weather have the potential to lower agriculture output, increase vulnerability of critical infrastructure that threatens loss of access to basic services, depress labor productivity, and affect human health.
9. The sea level has risen and will continue to rise. Sea level rise has impacted the ocean surrounding the FSM at a rate of 10 mm per year since 1993, exceeding the global average of 2.8–3.6 mm per year. By 2055, a total of approximately 375 acres of land in Kosrae are projected to be affected or underwater. By 2090, approximately 12,119 acres in Kosrae, Chuuk, Yap, and Pohnpei will likely be affected or underwater. Continued sea level rises will threaten coastal populations and infrastructure.
10. The geography of the FSM is unique in that on most of the country's islands there is little choice but to live near the ocean. Wave overtopping—the mechanism by which these islands might naturally adapt to rising sea levels—destroys food and water resources, typically long before any advantage to the island is achieved. Therefore atoll islets of the FSM may survive sea level rise, yet they will be largely uninhabitable. Atoll sensitivity is exacerbated by tidal extremes and storm surges, which cause fresh water shortages and human health problems. Regardless of future changes, sea level rise and El Niño-related droughts have already severely damaged, and some in places destroyed, the ability of FSM people to live on long-occupied lands. Continued global warming may make some of the atoll islets and other coastal settings of Micronesia uninhabitable within the next



few decades.

11. Ocean acidification has increased and will continue to increase and threaten coral reef species. Acidity levels have risen in the ocean surrounding the FSM as a consequence of the ocean's absorption of carbon dioxide.
12. Projections anticipate a decrease in frequency but increase in intensity of typhoons and severe storms.
13. Annual rainfall is expected to increase in the FSM over the course of the century. Increased rainfall will likely lead to more extreme rainfall days, more days of extreme heat, and fewer droughts.
14. Climate change presents numerous risks and challenges for the agricultural sector in the FSM. Agriculture makes up 25% of the FSM's land use, 2.3% of which is arable land, 19.7% is permanent crops, and 3.5% is permanent pasture. Agriculture comprises 26.3% of GDP. Sea level rise will increase salinization and erosion of agricultural land, reducing the country's land capacity to grow crops. Persistent coastal erosion threatens roadways, agroforestry production, habitable dwellings, and shallow coastal aquifers.
15. Highly vulnerable to climate change and sea level rise, low-lying coastal areas in the FSM have experienced extensive damage to their agriculture, biodiversity, and infrastructural damage. Approximately 75% of Kosrae state is experiencing coastal erosion. Approximately 70% of the population and infrastructure in Kosrae are located within its coastal zone.
16. The impacts of climate change have already violated and will continue to threaten the right of individuals in the FSM to an adequate standard of living, ensured by Article 25 of the Universal Declaration of Human Rights; the right to health, guaranteed by Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the right to food, protected by Article 2 of the ICESCR; the right to water (the Committee on Economic, Social, and Cultural Rights asserts that the right to water is not an only essential condition to survival, but also one that is inextricably tied to other rights); and the right to life, protected by Article 6 of the International Covenant on Civil and Political Rights (ICCPR). While the FSM has not signed or ratified the ICESCR or ICCPR, the Government remains bound by erga omnes obligations under customary international law.
17. The threat of uninhabitability posed by climate change to the FSM undermines its inhabitants' right to self-determination. A key component of self-determination is the right of peoples to permanent sovereignty over their natural resources. As sea levels rise, fresh-water sources turn salty, the ocean acidifies, and storms of historic intensities rage, the FSM may become unlivable, and its peoples may be forced to emigrate. The Government has yet to develop a cohesive plan to preserve its peoples' right to self-determination in light of the threats climate change pose to the islands' habitability. While the FSM has not signed or ratified the ICESCR or ICCPR, the Government



remains bound by *erga omnes* obligations under customary international law to take adequate measures to guarantee the rights of all peoples to self-determination in the face of the looming threats posed by climate change.

18. In 2018, the Government established the Department of Environment, Climate, and Emergency Management (DECEM), which is responsible for developing and mainstreaming climate change adaptation and disaster management policies.
19. The FSM's national provisions for disaster response are included within the Disaster Relief Assistance Act (1989) and the Nation-Wide Integrated Disaster Risk Management and Climate Change Policy (2013). In 2016, the Government released its National Disaster Response Plan to establish a national institutional arrangement for the Government for responding to emergency and disaster events within the country. However, the FSM's capacity to respond to a major disaster without external support is limited; state emergency preparedness and response facilities are critically under-resourced. The country is not resourced adequately to provide preparedness for post-disaster response.
20. Although the FSM's contribution to global greenhouse gas emissions is miniscule (0.003%), the Government is committed to taking mitigation measures. The FSM intends to meet its mitigation pledge under the Paris Agreement by expanding renewable power generation, improving the efficiency of power generation, and encouraging the adoption of energy efficient building design and appliances by households and the government. The Government has the goal of reducing carbon dioxide emissions in the energy and transport sectors by 28% below 2000 levels by 2025.
21. The FSM lacks a national adaptation plan that provides a strategic, coordinated framework for building climate resilience in the country. There is currently some fragmentation between state and national responsibilities across various government plans and documents in the FSM.

#### *Water Supply and Sanitation Issues*

22. Lack of access to potable water and adequate sanitation is a major issue in the FSM. The people of the outer islands particularly suffer from a lack of adequate water supplies and sanitation systems. The small, low-lying coral islands are particularly constrained in terms of both the quality and quantity of freshwater as a result of limited groundwater resources. Even communities with good water supply in the FSM have inadequate sources of sanitation services.
23. The management of freshwater resources is vital for maintaining basic needs and to promote sustainable development. The Committee on Economic, Social, and Cultural Rights asserts that the right to water is not an only essential condition to survival, but also one that is inextricably tied to other rights. Potable water and sanitation are also required to enjoy one's right to health, guaranteed by the ICESCR Article 12. While the FSM has not signed or ratified the ICESCR, the Government remains bound by *erga omnes*



obligations under customary international law.

### *Human Trafficking*

24. Human trafficking is an ongoing issue in the FSM. The Government has demonstrated increasing efforts to prosecute and convict more traffickers and enforce penalties proportionate to the seriousness of the crime. In 2019, the Government provided \$270,000 for anti-trafficking initiatives and opened its first shelter for survivors of trafficking in the state of Chuuk. However, the Government has failed to implement standard operating procedures for proactive victim identification and referral to protection services. Moreover, law enforcement and judicial understanding of trafficking remain low and protection services have been deemed overall inadequate.
25. The FSM has a national anti-trafficking law that prohibits all forms of forced or compulsory labor and imposes penalties for violations. The Government has generally enforced the law; however, resources and inspections were minimal. There were reports of foreign workers from Southeast Asian countries working in conditions indicative of human trafficking on Asian fishing vessels in the FSM or its territorial waters.
26. As a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the FSM is obligated under Article 6 to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” Under Article 35 of the Convention on the Rights of the Child (CRC), to which the FSM is also a State Party, the Government is further required to “take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.” Under Article 1 of the Convention on the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others, to which the FSM is a State Party, the Government is obliged to punish human traffickers.

### *Gender-Based Violence*

27. The FSM continues to see high rates of intimate partner violence and other forms of gender-based violence against women. Although rape is criminalized, the country has no laws specifically criminalizing spousal rape or sexual harassment. Effective prosecution of perpetrators of sexual violence is rare.
28. There are no governmental facilities that provide shelter and support to women experiencing intimate partner violence.
29. Article 3 of CEDAW requires the FSM Government to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

### *Lack of Access to Birth Registration*



30. Remote outer islands of the FSM lack hospitals and authorities to register the births of children. Individual states maintain birth records; there is no unified national birth registration requirement or system.
31. Birth registration is a basic right necessary for establishing nationality and citizenship, and is often crucial for the realization of other human rights. This foundational right is vital for a child's ability to prove their existence before the law and consequently has great bearing on the child's survival, protection, participation, and development within society. The right to nationality is guaranteed by the UDHR Article 15, the ICCPR Article 24, the ICERD Article 1, and the CRC Article 7.

#### *Corruption and Lack of Transparency in Government*

32. Official corruption and a lack of governmental transparency continue in the FSM. The extent to which Government officials have accepted direct bribes is unknown, however, misuse and misappropriation of government funds is commonplace. Complaints about misuse of public resources are frequent, particularly from U.S. authorities overseeing aid funds. A number of senior ex-FSM Government officials have been convicted of corruption under the FSM Financial Management Act, usually involving procurement fraud.
33. The FSM has laws prohibiting corruption and there are penalties for corrupt acts. The National Office of the Public Auditor, with support from the Department of Justice, is the entity most active in anti-corruption activities. However, the FSM Government has no government agency specifically tasked with the responsibility for combating corruption. Moreover, the Public Auditor highlights irregularities but lacks enforcement capability. The Department of Justice activity in this area has been variable.
34. Acts of corruption violate the UN Convention Against Corruption, to which the FSM has acceded, and the OECD Convention on Combating Bribery, which the FSM has not signed or ratified.

#### *Recommendations*

35. The Government of the FSM should ratify the major UN conventions, including the ICESCR, the ICCPR, the ICERD, and the Convention on Combating Bribery.
36. The Government should create and implement a national development plan to provide a strategic, coordinated framework for informing climate change mitigation efforts and building the country's climate resilience.
37. The Government should increase funding and resources dedicated to the implementation of climate change adaptation policies and strategies.
38. The Government should develop a cohesive plan to preserve its peoples' right to self-determination in light of the threats climate change pose to the islands' habitability.



39. The Government should develop and integrate adequate water resource management mechanisms on all of its inhabited islands to ensure potable water and adequate sanitation. This includes ensuring that small, low-lying coral islands have ample access to potable water.
40. The Government should increase efforts to investigate, prosecute, and convict perpetrators of human trafficking in the country. To achieve this:
  - a. The Government should increase resources for protection services for human trafficking survivors and implement increased anti-trafficking training for police, prosecutors, and judges.
  - b. The Government should monitor foreign labor recruitment for human trafficking indicators, including coercive use of debt.
  - c. The Government should create and fund shelters and other social services institutions with health, counseling, and security staff adequately trained to serve survivors of intimate partner violence and human trafficking.
41. The Government should criminalize all forms of gender-based violence prohibited by international law. The Government should criminalize sexual harassment and spousal rape.
42. The Government should increase access to birth registration in remote outer islands and standardize the country's identity documentation system.
43. The Government should take active measures to eliminate and prevent corruption and increase government transparency. This includes establishing a government agency specifically assigned with combating corruption and consistently prosecuting perpetrators of corruption and bribery.

\*\*\*

### **Acknowledgement**

*This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005) and Lillian Gill (Stanford 2017, Columbia 2019, Harvard Law School 2022)*