

# UNIVERSAL PERIODIC REVIEW OF THE FEDERATED STATES OF MICRONESIA

## Introduction

1. As the Federated States of Micronesia (FSM) prepares for its second cycle review of the UPR in 2015, this submission is made by members of the UN Country Team (UNCT) in the Pacific.<sup>1</sup> While the submission provides available information, it does not attempt to provide a comprehensive review of the human rights situation in FSM.
2. UNCT Pacific hopes that the preparations for the second review are seized as an opportunity for the Government and stakeholders to engage in consultations and exchange of views on new developments and implementation of UPR recommendations issued in 2010. It also encourages the Government to use the outcomes of the second review to further the enjoyment of human rights in FSM.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations

*(1<sup>st</sup> Cycle UPR recommendations 61.1 – 61.10 and 61.14 on core international human rights treaties; recommendations 61.11 – 61.13 on treaties related to trafficking and Palermo Protocol; recommendation 61.15 on ILO)*

3. FSM has acceded to CRC (1994) and CEDAW (2004), ratified CRC-OP-SC (2012) and signed CRPD (2011) and CRC-OP-AC (2002).
4. **UNCT urges FSM to ratify the remaining core international human rights treaties<sup>2</sup>, and their optional protocols, as recommended and accepted in FSM's first cycle UPR session in 2010.**
5. **UNCT further encourages FSM to progress its signature to CRPD by ratifying to the convention and domesticating nationally.**
6. During ratification of CEDAW, FSM made reservations on Article 11 (1) (d) regarding equal remuneration and recognition in employment, Article 11 (2) (b) regarding enactment of maternity leave and comparable social benefits, Article 2 (f) removal of discriminatory legislation, regulations, customs and legislation, Article 5 regarding modification of cultural and social patterns of conduct of men and women including child-rearing responsibilities, Article 16 regarding elimination of discrimination against women in all matters relating to marriage and family relations and Article 29 (1) regarding one member requesting arbitration on interpretation or application of CEDAW.
7. In responding to the Report of the Working Group following the FSM 1<sup>st</sup> Cycle UPR in 2010, FSM accepted recommendations 61.16 – 61.20 which called for the removal of the reservations to CEDAW. **UNCT reiterates the recommendations made and accepted in the 1<sup>st</sup> Cycle UPR to remove reservations to CEDAW. UNCT further urges FSM to seek and utilise technical support in addressing National and Federal constraints to the full adoption and implementation of CEDAW.**

8. In the first cycle UPR, FSM accepted recommendation 61.5 encouraging FSM to consider seeking membership in the International Labour Organisation with a view to ratifying the organization's fundamental Conventions. **UNCT encourages ongoing consideration and progress towards the fulfilment of this formerly accepted recommendation.**

**B. Constitutional and legislative framework**

*(1<sup>st</sup> Cycle UPR recommendation 61.52)*

9. Section 5 of Article IV of the Constitution makes provisions for non-discrimination on various grounds: sex, race, ancestry, national origin, language or social norms. However, the Constitution does not include gender, sexual orientation and disability as grounds for non-discrimination. **UNCT encourages constitutional amendments to include gender, sexual orientation and disability as grounds for non-discrimination.**

**C. Institutional and human rights infrastructure and policies**

**II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

**D. Cooperation with international human rights mechanisms**

*(1<sup>st</sup> Cycle UPR recommendations 61.46 and 61.47 on reporting)*

10. FSM has yet to fulfil its reporting obligations as required following accession to CRC and OP-CRC-AC. UNCT acknowledges the challenges faced by small island states in meeting reporting obligations. To this end **UNCT encourages FSM to submit its CRC Periodic Report which was due in June 2000, and its OP-CRC-AC report due in May 2014, and to seek and utilise technical support and resources from the UN and development agencies such as UNICEF to accelerate its efforts to fulfil its obligations of implementing the OP-CRC-AC and of reporting on it.**
11. UNCT further acknowledges the submission of the State report on CEDAW in January 2015 as a positive step in FSM's cooperation with international human rights mechanisms.

**III. Implementation of international human rights obligations**

**E. Right to life, liberty and security of the person**

*(1<sup>st</sup> Cycle UPR recommendations 61.24 – 61.28, 61.54 and 61.58 – 61.62 on violence against women and 61.29 and 61.63 on trafficking)*

12. FSM has high rates of domestic and gender based violence with fluctuations based on the district. Studies have shown that 33% of ever-partnered women experienced physical and/or sexual violence by a partner in their lifetimes and 24.1% experienced this violence in the 12 months preceding the VAW prevalence study supported by DFAT and UNFPA. Almost 10% of all respondents' experienced physical violence and 8% experienced sexual abuse by a non-partner since age 15 in their lifetimes. Slightly over 14% reported sexual abuse in childhood.

13. There is no Federal legislation on domestic violence and so far only Kosrae has passed domestic violence legislation. **UNCT urges the FSM to introduce Federal legislation criminalizing violence against women.**
14. **UNCT further encourages the Government of Kosrae to take action towards a holistic implementation of the Kosrae State Family Protection Act through strengthening health services and capacity development of key stakeholders, including police and the courts, provision of redress for victims and survivors of violence and ongoing efforts to raise community awareness and address cultural challenges in the elimination of violence against women.**
15. In domesticating and advancing the minimum standards for the elimination of human trafficking, the states of Pohnpei, Chuuk, Kosrae and Yap implemented anti-trafficking regulations in 2012. UNCT positively acknowledges the enactment of these regulations as recommended and accepted [61.29] during FSMs 2010 UPR.
16. **UNCT encourages ongoing efforts towards implementation of these regulations through improving efforts to investigate, prosecute and punish all human trafficking offenders, developing procedures for the proactive identification of human trafficking victims amongst populations such as foreign workers in the FSM and fishermen on fishing boats and well as through increasing community awareness on human trafficking and effective victim support mechanisms.**

**F. Right to privacy, marriage and family life**

*(1<sup>st</sup> Cycle UPR recommendation 61.30 and 61.56 on legislation on marriage)*

17. The minimum legal age for marriage in FSM is 18 years for boys and 16 years for girls, but girls under 16 may marry with parental consent.
18. **UNCT encourages legislative amendment to raise the minimum age for consent to marriage for girls to 18 years, in line with the CRC and article 16(2) of CEDAW.**

**G. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

*(1<sup>st</sup> Cycle UPR recommendations 61.51)*

19. The FSM has a 14 member congress and although women have run as candidates, no woman has ever been elected into congress. In 2012 the national congress introduced a bill for reserved seats for women, however it did not achieve the required support to progress further<sup>3</sup>.
20. **UNCT urges the Government of FSM to consider the adoption of Temporary Special Measures to address the critical gap of women in Parliament and Congress.**

**H. Right to work and to just and favorable conditions of work**

21. There is currently no labour law in place in the FSM providing for a minimum age and conditions for employment.

22. **UNCT encourages FSM to put in place labour laws that comply with article 32 of the CRC protecting all children from economic exploitation, setting the minimum age for employment and regulating work conditions. Legislative reform seeking to address persons that expose children to hazardous work environment or interfere with any child's education, right to health and social development in favor of child employment are further encouraged.**

**I. Right to social security and to an adequate standard of living**

*(1<sup>st</sup> cycle UPR recommendation 61.69)*

23. A large and growing population across the country live off subsistence activities such as the production of breadfruit, coconuts, bananas, betel nuts, cassava, taro and kava. These people are excluded from receiving benefits provided by the Government, as the social security programme is primarily designed for people employed in the formal sector<sup>4</sup>.

24. **UNCT encourages the introduction of a broader social protection system aimed at assisting marginalized and vulnerable groups and individuals, in particular those in the informal sector that do not benefit from the current social security programmes.**

**J. Right to health**

*(1<sup>st</sup> Cycle UPR recommendation 61.67 and 61.70 on health)*

25. The FSM has a dedicated Maternal and Child Health (MCH) Programme that provides clinical and outreach activities within communities and schools, including efforts to reach out-of-school adolescents.

26. The FSM has also made significant progress in reducing infant and under-five mortality, showing a fundamental commitment to child health.

27. Nearly 90 per cent of births occur in a health facility.

28. Breastfeeding helps protect babies and young children against dangerous illnesses.<sup>5</sup> There is little detailed data in the FSM regarding breastfeeding practices, including whether newborns are breastfed within one hour or one day of birth, mean duration of breastfeeding or exclusive breastfeeding and when solid foods are introduced in the infant's diet.<sup>6</sup> Pohnpei is the only State with a baby friendly hospital which is an important step in the promotion of breastfeeding.<sup>7</sup> Chuuk has an active breastfeeding supporting group which might explain higher rates of breastfeeding in that State.

29. Efforts are being made by FSM to reduce the risk of Sexually Transmitted Infections (STI) and HIV infections through the Preventative Health Service. National and State STI and HIV coordinators have been appointed. Faith-based groups including churches are also acknowledging and addressing the problems posed by STIs. Foreign donors are also supporting prevention activities.<sup>8</sup> **UNCT encourages the strengthening of routine and active surveillance systems and the strengthening of Federal and State capacity to plan, implement, monitor and evaluate national HIV and STI programme activities with special attention to reaching the most vulnerable and at risk populations including adolescents and youth.**

30. UNCT also encourages the FSM to expand the availability and accessibility of affordable HIV and STI services particularly for women, children, adolescents and young people by updating policies and guidelines on HIV and STI testing and counselling and on the prevention of mother to child transmission of HIV – encourage the use of rapid point care tests; focus on provider initiated counselling and testing; ensure that all HIV positive pregnant women are enrolled on lifetime treatment in an effort to significantly reduce the risk of transmitting HIV to their child; and ensure that infants born to HIV positive mothers are tested for HIV within two months of birth so they can begin lifesaving treatment immediately if it is required.
31. Immunization coverage varies widely between States and has decreased since the mid-2000s according to official estimates. The country is not achieving its own domestic target of 90 per cent of children completing all immunization by or before two years of age. UNCT recommends the implementation of public health interventions to expand immunization coverage, including to rural communities and outer islands.
32. Malnutrition is a common problem among young children, due more to the consumption of unhealthy or inappropriate food than a lack of access to nutritious food. Micronutrient malnutrition is relatively common – around one-third of pregnant women and infants screened in public hospitals were found to be anemic in 2011. UNCT encourages FSM to continue efforts to combat malnutrition and micronutrient deficiencies by ensuring the right to adequate food.
33. The FSM reported infant Mortality Rates (IMR) of 32/1000 in 2009. Of this, 16/1000 were deaths in newborns which means that 50% of all IMR were due to neonatal deaths. When considering child mortality as a whole, neonatal deaths account for 41% of all deaths for under 5 years of age. UNCT encourages FSM to ensure the right to health of newborns. Interventions could include focused antenatal care, early essential newborn care, emergency maternal and newborn care, breastfeeding, affordable neonatal intensive care for the seriously ill newborn and community follow-up for postnatal care including community-based maternal and newborn care.
34. Maternal mortality remains a concern. Maternal mortality ration is 127.7/100,000 births<sup>9</sup>. Women’s access to reproductive health services remains low. Data show that few women start Ante-Natal Care (ANC) in the first trimester of their pregnancy. UNCT encourages increased efforts to ensure access to early ANC, including to women in outer islands and isolated communities.
35. There is generally low contraceptive use due to various factors: poor service delivery due to geography, lack of supplies and cultural and/or religious beliefs against contraceptive use. Unmet need for contraceptives is estimated at 44%. Adolescent fertility rate, is 46.<sup>10</sup> UNCT encourages the development of family planning and adolescent health policies and programmes for reproductive health education and services and strengthening support services, including introduction of comprehensive sexuality education as well as youth-friendly services and counselling, for both adolescents and their families.

## **K. Right to education**

*(1<sup>st</sup> Cycle UPR recommendation 61.67 on education)*

36. The FSM Government has adopted the FSM Strategic Development Plan 2004 – 2023 containing five goals for the education sector targeting the “improvement of quality education, quality teaching, consolidating performance monitoring and data based decision-making, strengthening participation and accountability of the education system to the communities, ensuring education is relevant to the lives and aspirations of the FSM people”.
37. FSM is also developing a kindergarten curriculum to enhance social skills with math and language activities. It is anticipated that this will strengthen the standards and alignment of the Early Childhood Education (ECE) curriculum to national benchmarks.
38. According to data from the 2010 Census, some 85 per cent of primary school-aged children attended school in 2010, compared to only 55 per cent of secondary school-aged. There are significant disparities between and within the four States.
39. Quality of education is a key concern with more than 40 per cent of pupils in grade eight scoring far below the national minimum benchmarks for math and reading in performance assessments. The poor quality of learning and educational achievements is likely attributed to inadequate resourcing and lack of qualified teachers.
40. Rural-urban migration is only on the increase causing overcrowding in urban schools and depletion of students in outer-island schools.
41. Other concerns include poor school infrastructure and costly and limited contact available with schools on the outer islands, making it difficult for State and Federal agencies to provide technical assistance and support.
42. As the ECE Curriculum is revised and aligned to national benchmarks and standards, there is concern that the ECE recognized best practice of the importance of using vernacular as the main language instruction during the earliest years of school will be compromised. **UNCT recommends consideration of the gradual and slow introduction of English in ECE and first year of primary, while also supporting a strong foundation in language and literacy in the vernacular.**
43. As the education budget has been decentralized to the States, funding for ECE has been de-prioritized and has subsequently suffered. **UNCT recommends that all States in the FSM ensure that primary education is compulsory and available free to all;. FSM is also encouraged to provide Funds for trainings, professional development and ongoing monitoring of teachers.**

## **L. Persons with disabilities**

44. FSM has adopted the National Disability Policy (2009 – 2016) and also has a program managed by the social security administration to protect employees from loss due to disability. UNCT commends both initiatives by FSM.

45. However, although the FSM signed the CRPD in 2011, it has yet to ratify the convention. **UNCT encourages FSM to ratify the CRPD and to start with its implementation.**
46. The Constitution of FSM does not have specific provisions prohibiting discrimination against persons with disabilities. **UNCT encourages Constitutional amendments to explicitly prohibit discrimination on the grounds of disability.**
47. Access to human rights for children with disabilities is also a concern with critical shortages of appropriately trained professionals as well as limited access to transportation. **UNCT encourages the adoption of a rights-based approach to disability and further encourages FSM to seek technical support from the UN and development partners to enhance empowerment and access to rights for persons with disability, including children.**
48. Eligibility for the social security benefit is highly restrictive as only formal sector wage earners or their dependents can qualify. **UNCT encourages the introduction of a broader social protection system aimed at assisting persons with disabilities, in particular those in the informal sector that do not benefit from the current social security programmes.**

**M. Right to development, and environmental issues**

*(1<sup>st</sup> Cycle UPR recommendation 61.70 on environmental issues)*

49. Over the last two decades, the FSM has made significant progress in increasing sanitation coverage. Access to improved drinking water sources is relatively high, but reaching the last 10 per cent of the population remains a challenge. **UNCT encourages the FSM to continue to strengthen efforts to increase sanitation coverage. Community approaches to total sanitation is critical. UNCT further encourages increased support to Chuuk and the outer islands of Yap in increasing their access to water and sanitation.**
50. The Strategic Development Plan 2004-2023 gives high priority to water and sanitation issues with significant infrastructure development earmarked to the sector. The Plan also addresses issues such as climate change from awareness to the development of coastal management plans in all four States, and the development of climate proof facilities and structure that supports social and other services.
51. **UNCT encourages the development and adoption of child-centered disaster risk reduction frameworks and strategies which is crucial to the protection of children. UNCT further encourages the FSM to engage with the UN and development partners where technical support is required.**

<sup>1</sup> This report has been informed by direct contributions from OHCHR Regional Office for the Pacific, UN Women, UNICEF Pacific, UNFPA, UNDP Pacific Centre and UNESCAP.

<sup>2</sup> To date FSM has only acceded to CEDAW, CRC and has signed CRPD. UNCT urges ratification of CRPD and accession and ratification of the remaining six international human rights treaties: ICCPR, ICESCR, ICERD, CAT, ICRMW and CPED

<sup>3</sup> Secretariat of the Pacific Community, Noumea (2012) Stock-take of the gender Mainstreaming Capacity of Pacific Islands Government, FSM

<sup>4</sup> Children in the Federated States of Micronesia:2013 - An Atlas of Social Indicators, p16. Sourced from:

[http://www.unicef.org/pacificislands/FSM\\_Equity\\_Ready\\_web.pdf](http://www.unicef.org/pacificislands/FSM_Equity_Ready_web.pdf)

<sup>5</sup> [http://www.unicef.org/pacificislands/resources\\_20544.html](http://www.unicef.org/pacificislands/resources_20544.html)

<sup>6</sup> Children in the Federated States of Micronesia:2013. An Atlas of Social Indicators, p40. Sourced from [http://www.unicef.org/pacificislands/FSM\\_Equity\\_Ready\\_web.pdf](http://www.unicef.org/pacificislands/FSM_Equity_Ready_web.pdf)

<sup>7</sup> Ibid. Pg 16

<sup>8</sup> Ibid. Pg 16

<sup>9</sup> FSM MDG Status Report 2010

<sup>10</sup> 2010 National Population and Housing census results (Division of Statistics, SBOC)