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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-sixth session**  
4–15 May 2020

## **Summary of Stakeholders' submissions on Marshall Islands\***

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 4 stakeholders' submissions<sup>1</sup> to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

#### **II. Information provided by stakeholders**

##### **A. Scope of international obligations<sup>2</sup> and cooperation with international human rights mechanisms and bodies<sup>3</sup>**

2. JS1 noted that the government of the Marshall Islands has ratified most conventions and locally enacted many UN treaties, when compared to other Pacific Islands countries, and it was working towards meeting these obligations, while it is lagging behind in the ratification of some ILO conventions.<sup>4</sup>

3. CGNK commended the fact that Marshall Islands had no army, worked tirelessly towards nuclear disarmament and recognized the reciprocal jurisdiction of the International Court of Justice. It encouraged, however, progress towards the ratification of the international peace constitution. CGNK strongly urged and recommended the authorities of the Marshall Islands the swift ratification of the Convention on the prevention and punishment of the crime of genocide. CGNK also recommended the ratification of the optional protocols of the 1949 Geneva Conventions; the three Hague conventions on the protection of cultural property; the Enmod convention on the prohibition of military or any other hostile use of environmental modification techniques; the protocols of the Convention of conventional weapons; and the mine and clusters munitions ban conventions and the arms trade treaty.<sup>5</sup>

4. CGNK recommended the ratification of ICCPR OPII aiming at the abolition of the death penalty.<sup>6</sup>

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\* The present document was not edited before being sent to United Nations translation services.



5. CGNK noted that there were no cases of enforced disappearances listed by the working group on enforced disappearances in the Marshall Islands. However, the convention has universal effects and contains provisions regarding cases beyond the national territory. Henceforth, CGNK recommended to the State of the Marshall Islands to urgently ratify the International Convention for the Protection of All Persons from Enforced Disappearance. It is with some regret that CGNK also noted that the supported recommendations made to this end by France, Uruguay, Argentina and Brazil have not yet been implemented. It encouraged these States to provide help and support to attain this needed ratification.<sup>7</sup>

6. ICAN noted with appreciation that the Marshall Islands participated in the negotiation of the UN Treaty on the Prohibition of Nuclear Weapons and voted in favour of its adoption on 7 July 2017. It was among the co-sponsors of the UN General Assembly resolution in 2016 that established the mandate for nations to negotiate the treaty. However, the Marshall Islands has not yet signed the treaty. ICAN recommended that the Marshall Islands signs and ratifies the UN Treaty on the Prohibition of Nuclear Weapons as a matter of international urgency.<sup>8</sup>

7. JS1 observed that there was record of the government of the Marshall Islands working with UN treaty bodies and Special Rapporteurs.<sup>9</sup>

8. JS1 urged the Human Rights Council to contextualise the recommendations made to the Marshall Islands, particularly those made by Member States to take immediate action to accede or to immediately ratify UN treaties and enact local legislation as part of its commitment through ratification, as this has become a backlog for the Marshall Islands to allow it to meet its international standards, using local processes and procedures with local resources. It called on the UN family to assist the Government including financially to meet the series legal obligation as anchor and final to the people of the Marshall Islands.<sup>10</sup>

9. JS1 congratulated the Marshall Islands for the hard work in bringing the fulfilment of human rights. It noted that the Constitution of the Marshall Islands had a Bill of Rights Chapter under Article II from section 1 to 17. This Bill of Rights is peculiar in a way as Section 17 is very inclusive and may recognise those rights that are not listed under the Bill of Rights Chapter, and also provides for the inclusion of developing human rights, however, the Bill of Rights Chapter does not have an enforcement provision and Section 17 of article II must be promoted as inclusive and very forward looking of the Marshall Islands Constitution. It recommended an enforcement provision of the Human Rights Bill that will make local legislations 'have supreme law' status. In addition to that, is the issue of implementation.<sup>11</sup>

## **B. National human rights framework<sup>12</sup>**

10. JS1 reported that there was a move to establish a National Human Rights Commission. The timing maybe slow but the processes are important as "the process determines the product". A lot more human rights capacity building to elevate the legal and political literacy of the republic is needed to ensure that the NHRI is utilised effectively.<sup>13</sup>

11. JS1 noted that the promotion of direct democracy, as practiced by Government through the Office of the Chief Secretary, was one that has to be promoted to all arms of Government where there is robust and inclusive public consultation and responsive governance.<sup>14</sup>

## **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **1. Civil and political rights**

*Right to life, liberty and security of person<sup>15</sup>*

12. CGNK noted that Marshall Islands was free from death penalty ever since independence. It congratulated the country for this clear stand of exemplarity, a State refusing this power to kill. However, the Second Protocol of the Covenant on Civil and Political

Rights aiming at the Abolition of the death penalty still needs ratification to confirm this stand and fully join the non-killing by death penalty nations. CGNK noted with some regret that the supported recommendations made to this end by France and Montenegro have not yet been implemented. It encouraged States to provide help and support to attain this needed ratification.<sup>16</sup>

*Fundamental freedoms and the right to participate in public and political life*<sup>17</sup>

13. JS1 stated that the Marshall Islands was a country where, given the fact that human rights advocates were initially Government employees, these employees promoted the universality and absolute nature of human rights. In many jurisdictions, though it is the human rights advocates from the NGOs and CSOs that promote human rights but the Government, being the ultimate guarantor, is seeking the exceptions and limitations to these rights. In the Marshall Islands, Government itself is duty bound to meet these obligations. Despite the process of meeting the different obligations not executed in an orderly manner, conversations at the top level of government have been pro-human rights. What is left is for the citizens to know that they have these rights and claim them as well as meet their duties and obligations. JS1 stated that the continued partnership and engagement between Marshall Islands Council of Non-Government Organizations (MICNGOS) and Government in a complementary and non-confrontational manner will benefit the citizens of the Marshall Islands as they get to be parts of appropriate processes that will grant them a more responsible culture with protection of their fundamental rights and freedoms. It noted that the government of the Marshall Islands created an enabling environment for MICNGOS by funding them for the next 3 years as it works well in a complimentary and non-confrontational society.<sup>18</sup>

## **2. Rights of specific persons or groups**

*Women*<sup>19</sup>

14. JS1 observed that there were human rights protection laws for women, laws against domestic violence to protect women and children, laws to protect the disability, and laws to protect children but some of these local legislations have been around long enough to have been amended or needing amendment.<sup>20</sup>

*Children*<sup>21</sup>

15. The GIEACPC noted that in the Marshall Islands, corporal punishment of children was still lawful despite repeated recommendations to prohibit it by the Committee on the Rights of the Child. The Marshall Islands expressed its commitment to prohibiting all corporal punishment of children, including in the home, by clearly accepting recommendations to do so made during the Universal Periodic Review of the Marshall Islands in 2015. Corporal punishment is lawful in the home and in day care. Corporal punishment is prohibited in schools, but the prohibition is undermined by the existence of legal defence for its use in the Criminal Code 2011, which has not yet been formally repealed. Corporal punishment is unlawful as a disciplinary measure in penal institutions and unlawful as a sentence for crime. In 2017, the Government stated that corporal punishment was “a difficult topic in Marshallese culture” and was often viewed as “a necessary tactic to discipline children or others under their care”. GIEACPC hoped the Working Group will note with concern the legality of corporal punishment of children in the Marshall Islands, and hoped States will raise the issue during the review in 2020 and make a specific recommendation that the Marshall Islands draft and enact legislation as a matter of priority to explicitly prohibit all corporal punishment of children in all settings.<sup>22</sup>

## Notes

- <sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

*Civil society**Individual submissions:*

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| CGNK    | Center for Global Nonkilling, Geneva (Switzerland);  |
| GIEACPC | Global Initiative to End All Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland); |
| ICAN    | International Campaign to Abolish Nuclear Weapons (ICAN) Geneva (Switzerland).   |

*Joint submissions:*

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| JS1 | <b>Joint submission 1 submitted by:</b> Marshall Islands Council of Non-Government Organizations (MICNGOs), Majuro (Marshall Islands). |
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- <sup>2</sup> The following abbreviations are used in UPR documents:

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| ICERD      | International Convention on the Elimination of All Forms of Racial Discrimination;                             |
| ICESCR     | International Covenant on Economic, Social and Cultural Rights;  |
| OP-ICESCR  | Optional Protocol to ICESCR;   |
| ICCPR      | International Covenant on Civil and Political Rights;  |
| ICCPR-OP 1 | Optional Protocol to ICCPR;  |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;                               |
| CEDAW      | Convention on the Elimination of All Forms of Discrimination against Women;                                    |
| OP-CEDAW   | Optional Protocol to CEDAW;  |
| CAT        | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;                      |
| OP-CAT     | Optional Protocol to CAT;  |
| CRC        | Convention on the Rights of the Child;   |
| OP-CRC-AC  | Optional Protocol to CRC on the involvement of children in armed conflict;                                     |
| OP-CRC-SC  | Optional Protocol to CRC on the sale of children, child prostitution and child pornography;                    |
| OP-CRC-IC  | Optional Protocol to CRC on a communications procedure;  |
| ICRMW      | International 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;   |
| OP-CRPD    | Optional Protocol to CRPD;   |
| ICPPED     | International Convention for the Protection of All Persons from Enforced Disappearance.                        |

- <sup>3</sup> For relevant recommendations see A/HRC/30/13, paras. 75.1–75.36, 75.61–75.63 and 75.66.

- <sup>4</sup> JS1, paras. 24-25.

- <sup>5</sup> CGNK, pp. 1 and 7.

- <sup>6</sup> CGNK, p. 7.

- <sup>7</sup> CGNK, p. 7.

- <sup>8</sup> ICAN, p. 1.

- <sup>9</sup> JS1, para. 23.

- <sup>10</sup> JS1, paras. B (i) 7-11 and F (2-4).

- <sup>11</sup> JS1, paras. B (i) 7-11 and F (3-4).

- <sup>12</sup> For relevant recommendations see A/HRC/30/13, paras. 75.37–75.38, 75.43–75.53, 75.58, 75.60 and 75.64.

- <sup>13</sup> JS1, para. 14.

- <sup>14</sup> JS1, para. 7.

- <sup>15</sup> For relevant recommendations see A/HRC/30/13, Report of the working group, paras. 75(74), (Thailand); 75(85), (Sweden); 75(86) (Brazil); and 75(87) (Namibia). See also A/HRC/16/12, Report of the working group, paras. 56(13) (Australia); and 56(20) (Argentina); (Slovakia) and (Hungary) and A/HRC/30/13/Add.1, Report of the working group: Addendum, paras. 5.

- <sup>16</sup> CGNK, pp. 1 and 7.

- <sup>17</sup> For relevant recommendations see A/HRC/30/13, paras. 75.88–75.92.

<sup>18</sup> JS1, paras. 16-19.

<sup>19</sup> For relevant recommendations see A/HRC/30/13, paras. 75.39, 75.55–75.57, 75.67, 75.69–75.80 and 75.82–75.83.

<sup>20</sup> JS1, para. 13.

<sup>21</sup> For relevant recommendations see A/HRC/30/13, paras. 75.40, 75.68 and 75.81 and 75.85–75.87.

<sup>22</sup> GIEACPC, pp. 1-4.

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