United Nations A/HRC/WG.6/9/MHL/1

General Assembly

Distr.: General
23 August 2010

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Ninth session
Geneva, 1–12 November 2010

National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1*

Marshall Islands

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

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I. Methodology and consultative process

A. Resources Development Committee

1. Further to Human Rights Council Resolution 15/1, this Universal Periodic Review (UPR) report was prepared by the Resources Development Committee (RDC) on behalf of the Government of the Republic of the Marshall Islands (RMI). The RDC was established by the Cabinet on 09 September 2009, and consists of the Office of the Chief Secretary, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Resources and Development, Ministry of Health, the Ministry of Justice including the Attorney-General's Office, the Public Defender's Office, and the Department of Public Safety, the National Training Council, Environmental Protection Authority, the Economic Planning, Policy and Statistics Office, the United Nations Presence Office, the Marshall Islands Non-Government Organization, the Women United Together Marshall Islands, the Youth-to-Youth-in-Health, and other representatives as needed. It should be noted that the RDC is not only made up of Government offices but Non-Government Organizations and an International Organization as well.

B. Consultations

2. Consultations were made with various communities in the urban centers of Majuro Atoll and Kwajalein Atoll, i.e. Ebeye Island, from 15 March to 18 June. Consultations on the rural atolls were not carried out due to the sporadic services of Air Marshall Islands, the local airline.

3. Moreover, although operating under budgetary constraints, the RDC was able to obtain funding assistance from the Regional Rights Resource Team (RRRT) of the Secretariat of the Pacific Community (SPC) to assist with its activities. Also to the credit of the SPC/RRRT, the RDC was able to initiate information-gathering from relevant Government offices during the Government and NGO Forum on the UPR conducted by the aforesaid regional organization in the first week of February, 2010.

II. Background and framework of the RMI

A. Background

4. The Preamble of the RMI Constitution states that "**WE, THE PEOPLE OF THE REPUBLIC OF THE MARSHALL ISLANDS**, trusting in God, the Giver of our life, liberty, identity and our inherent rights, do hereby exercise these rights and establish for ourselves and generations to come this Constitution, setting forth the legitimate legal framework for the governance of the Republic…With this Constitution, we affirm our desire and right to live in peace and harmony, subscribing to the principles of democracy, sharing the aspirations of all other peoples for a free and peaceful world, and striving to do all we can to assist in achieving this goal. We extend to other peoples what we profoundly seek from them: peace, friendship, mutual understanding, and respect for our individual idealism and our common humanity." The RMI, with a population of over roughly 60,000 people, consists of low-lying coral atolls (29) and islands (5) in the central Pacific with a total land area of approximately 181 sq. km scatted over 750,000 sq. miles of ocean.

5. Following World War II, the RMI was administered by the United States under a United Nations-mandated Pacific Islands Trust Territory. It was during this Trust Territory

period that the U.S. detonated in the RMI, namely the atolls of Bikini and Enewetak, 67 atmospheric, land, and underwater atomic and thermonuclear weapons from 1946-1958, or the equivalent of 1.6 Hiroshima bombs every single day for the 12 years of the U.S. Nuclear Testing Program (NTP). Such was the legacy of the U.S., and to this day outstanding issues arising of the NTP has yet to be resolved. The RMI adopted its Constitution in 1979, and on 21 October 1986, the RMI entered into the Compact of Free Association with the U.S. An amended version of the Compact was signed in 2003.

6. U.S. Compact assistance is the mainstay of the RMI's economy. Agricultural production is primarily subsistence and is concentrated on small farms; the most important commercial crops are coconuts and breadfruit. Small-scale industry is limited to handicrafts, tuna processing, and copra. The tourist industry is a small source of foreign exchange employing less than 10% of the labor force, but there is potential for growth. The RMI has few natural resources, and imports far exceed exports. The official language is Marshallese and English.

B. Institutional Framework

7. In accordance with its Constitution, the RMI Government operates under a mixed parliamentary-presidential system. The President, who is both the Head of State as well as the Head of Government, is elected by the *Nitijela*; likewise for his/her Cabinet, all of which comprises the Executive branch headed by the President. The RMI has a bicameral parliament, the Council of *Iroij* (the upper house) and the *Nitijela* (the lower house). Legislative authority lies with the *Nitijela* comprised of 33 elected senators while the Council of *Iroij* comprised of 12 chiefs, the latter of which has an advisory role, particularly in the review of legislation affecting customary law and practices, including land tenure. Elections are held every 4 years in universal suffrage for all citizens over 18 years of age. The RMI Constitution also provides for a judicial body of the Government: the Supreme Court, the High Court, the Traditional Rights Court, and various district and community courts.

C. Legal Framework

1. Constitution

8. Article I, Section 1(1) of the Constitution provides that the Constitution shall be the supreme law of the land.

9. Article I, Section 4 states that subject to the express limitations placed on the judicial power:

(a) "the Attorney-General acting in the name of the people of the Republic of the

(b) Marshall Islands, and all persons directly affected by an alleged violation of this Constitution, whether private individuals or public officials, shall have standing to complain of such violation in a case or controversy that is the subject of an appropriate judicial proceeding;

(c) any court of general jurisdiction, resolving a case or controversy implicating a provision of this Constitution, shall have power to make all orders necessary and appropriate to secure full compliance with the provision and full enjoyment of its benefits;

(d) the Government of the Republic and any local government shall not be immune from suit in respect of their own actions or those of their agents; but no property or

other assets of the Government of the Republic or of any local government shall be seized or attached to satisfy any judgment."

10. Under Article II, the people of the Republic of Marshall Island are granted the following fundamental rights and freedoms without discrimination on the basis on gender, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, subject to reasonable restrictions imposed by law which are necessary to preserve public peace, order, health, security or the rights or freedoms of others provided that there exists no less restrictive means of doing so and said restrictions do not penalize conduct on the basis of disagreement with the ideas or beliefs expressed, including, but not limited to:

(a) Freedom of thought, conscience, and belief;

(b) Freedom of speech and of the press;

(c) Free exercise of religion;

(d) Freedom of peaceful assembly and association;

(e) Right to petition the government for a redress of grievances;

(f) Freedom from slavery and involuntary servitude;

(g) Freedom from cruel and unusual punishing, including torture, inhuman and degrading treatment, or excessive fines or deprivations;

(h) Right to the protection of law vis-à-vis unusual search and seizure, due process and fair trial, trial by jury of peers, habeas corpus, just compensation for the taking of land or other private property, ex post factor laws and bills of attainder, imprisonment for debt, and access to judicial and electoral process;

(i) Freedom from quartering soldiers;

(j) Freedom from conscription during peace except in time of war provided that he has not established conscientious objection to the war;

(k) Right to personal autonomy and privacy;

(l) Right to health, education, and legal services;

(m) Right to an ethical government;

(n) Equal protection and freedom from discrimination;

11. Article X provides for traditional rights, noting that "nothing in Article II shall be construed to invalidate the customary law or any traditional practice concerning land tenure or any related matter in any part of the Republic of the Marshall Islands, including, where applicable, the rights and obligations of the *Iroijlaplap*, *Iroijedrik*, *Alap* and *Senior Dri Jerbal*[1]".

2. Legislation

12. The *Nitijela* has passed the following legislation to address human rights issues:

(a) Elections and Referenda Act 1980 [2 MIRC Ch. 1];

(b) Elections Offenses Act [2 MIRC Ch. 2];

[1] The 4 classes of landowners of a particular parcel of land, consisting of, respectively, the Paramount Chief, the Lesser Chief, the Head of the Clan, and the Land Manager.

(c) Referendum (calling for a Constitutional Convention) Act [2 MIRC Ch. 3];

(d) Ethics in Government Act 1993 [3 MIRC Ch. 17];

(e) Public Service Commission Act 1979 [5 MIRC Ch. 1];

(f) Marshall Islands Public Defender Act 1979 [5 MIRC Ch. 3];

(g) Office of the Attorney-General Act 2002 [5 MIRC Ch. 6];

(h) Commissions of Inquiry Act 1986 [6 MIRC Ch. 3];

(i) Public Health, Safety, and Welfare Act [7 MIRC Ch. 1];

(j) School Immunization Act 1981 [7 MIRC Ch. 4];

(k) Financial Management Act 1990 [11 MIRC Ch. 1];

(l) General Fiscal Matters Act [11 MIRC Ch. 12];

(m) Education Act 1991 [14 MIRC Ch. 3];

(n) Minimum Wage Act 1986 [16 MIRC Ch. 4];

(o) Labor (Minimum Conditions) Inquiry Act 1983 [16 MIRC Ch. 5];

(p) Juvenile Procedure Act [26 MIRC Ch. 3];

(q) Child Abuse and Neglect Act [26 MIRC Ch. 5];

(r) Adoptions Act 2002 [26 MIRC Ch. 8];

(s) Judiciary Act 1983 [27 MIRC Ch. 2];

(t) Jury Trial Act [27 MIRC Ch. 5];

(u) Evidence Act 1989 [28 MIRC Ch. 1];

(v) Civil Procedure Act [29 MIRC Ch. 1];

(w) Criminal Code [31 MIRC Ch. 1];

(x) Prostitution Prohibition Act 2001 [31 MIRC Ch. 5];

(y) Criminal Procedure Act [32 MIRC Ch. 1];

(z) Customary Law and Language Commission Act 2004 [39 MIRC Ch. 1];

(aa) Procurement Code (Act) 1988 [44 MIRC Ch. 1]; and

(bb) Social Security Act 1990 [49 MIRC Ch. 1].

3. International Conventions

13. The Republic ratified and acceded the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), respectively. Moreover, soon after becoming a member of the International Labor Organization, the Republic acceded to the Maritime Labor Convention.

III. Promotion and protection of human rights

A. Constitution

14. As noted above, the Constitution is the Supreme Law of the land and therefore serves as the appropriate medium in guaranteeing the fundamental rights and freedoms of

the people of the Marshall Islands as per the Bill of Rights under Article II. Of particular concern, however, is the absence of the right to life noted under the Bill of Rights. Moreover, it should be noted that within its elaboration of freedom from discrimination, the Constitution is silent on the freedom from discrimination based on sexual orientation. The implications of this are the potential risk to the right to life and freedom from discrimination based on all status. It should be further noted that, notwithstanding its importance, the Bill of Rights does not take away from the significance and relevance of the customary law or traditional practices with respect to land tenure or related matters of the Marshallese people.

15. In delineating the membership and role of the executive, legislative, and judicial branches of the RMI Government, the Constitution further establishes public servants, e.g., Chief Secretary and Attorney-General, and offices, e.g., Public Service Commission, to implement the policies of the Cabinet. It should be noted that although the Auditor-General is one of the officers established under the Constitution, a major bulk of said Office's responsibilities were outsourced to an international accounting firm. Moreover, the post has been vacant for some time following the passing of the former Auditor-General in mid-2009.

B. Judicial Branch and Rights Related to Arrest, Detention, and Fair Trial

16. The judicial aspect of the RMI Government is based on the values of the rule of law, peace, and freedom, and this is exemplified by the Constitution affirming the independence of the judiciary vis-à-vis the executive and legislative branches. The High Court has original jurisdiction with respect to the Bill of Rights, and may issue such orders as to enforce the rights thereunder.

17. The Constitution and legislation passed by the *Nitijela* requires that a warrant be issued by a court for an arrest if there is sufficient time to obtain it. The courts have interpreted this to exclude situations such as a breach of the peace or a felony in progress from this requirement. Those who are arrested have the right to a prompt determination of the legality of their detention. Moreover, a system of bail exists for detainees who have committed minor offenses as opposed to serious offenses, most of which require the detainee to remain in jail until a hearing can be arranged, usually the morning after the arrest. Access to a lawyer of their choice or, if they cannot afford one, to one appointed by Government, is available for those who have been arrested; likewise for access to their families.

18. The right to a fair trial is granted under the Constitution. Defendants have the right to the presumption of innocence, the right to question witnesses, examine evidence held by the Government, and appeal convictions. Defendants also have the choice for trial by either the bench trial or a jury; the latter is usually chosen due to its higher rate of acquittals[2].

C. Freedom of Speech and Press

19. The freedom of speech and of the press is granted under the Constitution, which are generally observed given the effective combination of the press, judiciary, and the democratic system.

[2] U.S. Department of State Human Rights Report on the Republic of the Marshall Islands, March 11, 2010.

D. Ethics in Government

20. The Bill of Rights under Article II of the Constitution states that the Government recognizes the right of the people to a responsible and ethical government and its "obligation to take every step reasonable and necessary to conduct government in accord with a comprehensive code of ethics".

21. However, it was not until 1993 that the Ethics in Government Act was adopted by the *Nitijela* covering the conduct of both public servants and elected officials to ensure the confidence of the people in the integrity of the Government. Established therein is the Government Ethics Board to oversee general compliance with ethical standards. It consists of the Chief Secretary, the Attorney-General, and the Auditor-General. To date, the Board has not been utilized. Any action taken by the Board shall be publicly disclosed. It should be noted that the President retains the veto power to any action of the Board with respect to any *Nitijela* member prior to that action being taken and shall have the authority to nullify any such action within thirty (30) days following the Board's decision. The *Nitijela* has the same power but with respect to the President.

22. The Ethics Commission, consisting of three (3) members, includes the Secretary of Foreign Affairs, the Secretary of Finance, and the Attorney-General, and is established under the Procurement Code to uphold the ethnical standards noted therein with respect to procurement practices. To date, the Commission has been used only once in early 2009.

23. The Criminal Code criminalizes corruption of government workers and provides penalties for offences therein. There have been allegations of government corruption, and although some public servants have been convicted, these workers are usually able to secure employee elsewhere in the government. It should be noted that the RMI is not a signatory to the UN Convention Against Corruption.

24. Of particular importance is the lack of an independent human rights commission or an Ombudsman Office. Such an establishment would further solidify the people's right to a responsible and ethical government.

E. Election

25. Universal and equal suffrage is granted under the Constitution provided that the voter has attained 18 years of age, is not certified to be insane, and, with respect to felony convictions, is not serving his sentence or on parole.

26. Elections for the *Nitijela* are held every four (4) years. Following the general elections, the President is elected from within the membership of the *Nitijela* by secret ballot. 7 days following his appointment, the President must nominate "not less than 6 and not more than 10" *Nitijela* members to serve as his Cabinet ministers, who must be appointed by the Speaker. Should the 7-day limit be reached with the minimum number of nominations made by the President, his election shall have no effect and the *Nitijela*, as soon as practical, select another President.

27. The most recent general election of the *Nitijela* was in November of 2007. Due to a couple of initiatives taken by the Chief Electoral Officer, including the re-count of some of the ballot boxes, allegations of misconduct were made. It should be noted that a team of independent election observers from the Pacific Islands Forum Secretariat stated that in its initial report, although poorly managed, there were no constitutional infringements.

28. The Government established an independent Commission of Inquiry to investigate the various allegations made about the 2007 general election, which held a number of hearings and questioned various officials and private citizens. The Commission issued its

findings in February of 2008, basically criticizing the interference of the then Minister of Internal Affairs in the civil service hiring process which resulted in the hiring of unqualified individuals to manage the election process. Members of the *Nitijela*'s Standing Committee on Judiciary and Governmental Relations were able to hold public hearings with Marshallese communities residing in Springdale, Arkansas, and Honolulu, Hawaii.

29. After two unsuccessful attempts, a vote of no-confidence vote on 21 October 2009 by the opposition party removed His Excellency Litokwa Tomeing as President. 5 days later, the *Nitijela* elected Jurelang Zedkaia as the President. Although in a way this event shows some political instability and its own set of issues, it does demonstrate that the people's right to take part in government proceedings, albeit indirectly, is not restricted.

F. Women

30. Traditionally, the RMI is a matrilineal society where succession of and to land rights pass through women. However, the authority to exercise and control these rights is usually delegated to the men.

31. Although women enjoy the same rights as men under the Constitution, it is apparent that there are fewer women than men who take up high government positions. There is currently only one woman serving in the 33-member *Nitijela* and four in the 12-member Council of *Iroij*. It should be noted, however, that there are a number of women serving in prominent government positions such as the Minister of Health, the Secretary of Health, the Secretary of Foreign Affairs, the Secretary of Education, the Director of the Social Security Administration, the Director of the Office of Environmental Planning and Policy Coordination, and the General Manager of the Environmental Protection Authority. In the private sector, although there are more women employed, their positions are usually low-paying.

32. Violence against women (VAW) is prohibited by law, and is placed in the same criminal category of assault and battery. The Women United Together Marshall Islands (WUTMI), an NGO, is active in raising awareness of issues concerning the rights of women. In 2003, WUTMI completed a study on VAW, and since then has developed a DVD raising awareness on VAW. The RMI celebrates an international day on VAW where, amongst others, radio programs are conducted to identify incidences of VAW.

33. The Criminal Code has a comprehensive coverage on sexual abuse and related violence against women, including rape. The police usually respond to reports on rape and other violence against women, but there is a general understanding that not all incidents are reported.

34. Although the RMI is a party to the CEDAW, there are still gaps in legislations and policies of the RMI, such as the delay in the finalization of the National Report on Women, all of which prevent full implementation of the CEDAW. Moreover, the RMI has yet to submit its initial country report. With assistance from the international community, it is hoped that more progress will be achieved by the RMI on its obligations to CEDAW.

G. Children

35. Compulsory education is for children age 4-18, and the law requires that children are fully immunized prior to entry into school. Although free education is provided in a number of public schools, there are still a number of children who do not attend school at all or drop out. Absenteeism is also a concern in the public educational system.

36. The law prohibits child abuse and neglect, and considers such offenses punishable up to 25 years imprisonment depending on the degree of the offense. The law also requires teachers, caregivers, and others to report incidents of child abuse and neglect and exempts them from civil or criminal liability as a consequence of making such a report. The minimum age of consensual sex is 14 years old, and committing statutory rape is punishable of up to 25 years imprisonment. Unfortunately, public awareness of children's rights is not high.

37. Although the labor law of the RMI does not set up the minimum age of children to be employed, there are generally no concerns with child labor. Children usually assist their families in fishing, agriculture, retailing, and other small family business enterprises.

38. The RMI is a party to the Convention on the Rights of the Child (CRC), and has submitted its initial country report as well as its 2nd Periodic Report. Moreover, the RMI submitted its country initial report and its 2nd Periodic Report. Needless to say, however, there are still legislative gaps to remedy in order to fully implement the CRC within the RMI.

H. Disabilities

39. The Constitution does not address discrimination based on disability, and there is no legislation specifically for disabled persons other than the Education Act provisions dealing with special education. This lack of recognition of disabled persons exists even though they represent an estimated 10% population[3], which comes to approximately some 800,000 Pacific Island people. In the RMI, however, there is generally no discrimination against persons with disabilities, although it should be noted that no building codes exist that mandating access for such persons.

40. In the RMI, there exists the Marshall Islands Special Parents Association (MISPA) and the National Interagency Council on Disabled Individuals and Their Families (Council). The MISPA is a parent-directed organization, and targets appropriate educational and vocational programs for children with special needs. The Council deals more with the health aspect of children with special needs, and consists of government, NGOs, and local government programs.

41. The RMI has yet to ratify the Convention on the Rights of People with Disabilities, and will need to undertake more effort in meeting its obligation under the Biwako Millennium Framework further its endorsement by the Forum Leaders in 2003.

IV. Voluntary Commitments

A. Access to Justice

42. It is the constitutional mandate of the Attorney-General's Office to provide legal advice and service to the Government. Also provided under the Constitution is the Government's recognition of the right of the people to legal services, and is obliged to take every step reasonable and necessary to provide said services. Consequently, for indigent people who cannot afford legal representation, free legal access is provided by the Public Defender's Office and the Micronesian Legal Services Office.

[3] World Bank estimate as in Social Analysis and Disability: A Guidance Note, 2007, p6.

B. Access to Education

43. The Education Act states that the *Nitijela* declares and recognizes the right of the people to education and the Government's obligation to take every step reasonable and necessary to provide this service as per the Constitution. The compulsory ages of school attendance is 4-18 years old. It is the Government's policy that the goal of its educational system is to foster self-reliance. In addition to free education, transportation and meals are also provided by the Government.

44. In renegotiating the Compact of Free Association with the United States, the RMI Government had maintained that one of its priority areas was education. Since the amended Compact came into effect, the Government has built approximately 200 newly constructed and repaired classrooms throughout the country utilizing Compact public infrastructure funding.

C. Access to Health

45. Under the Constitution, the Government recognizes the right of the people to health services, and its obligation to take every step reasonable and necessary to provide said services with the health care system including 2 hospitals in the urban centers and 58 health centers in the outer islands. The Government therefore provides free medical services to its people. Where these services cannot be provided, there are referral programs for patients to Honolulu, Philippines, and Republic of China (Taiwan).

46. In renegotiating the Compact of Free Association with the United States, the RMI Government had maintained that one of its priority areas was health. From the Fiscal Year 2004 through 2009, one (1) new Health Center was constructed including five (5) maintenance projects for 46 outer island dispensaries using Compact public infrastructure funding. Planning already initiated for a new hospital in Majuro, and the hospital redevelopment project for the new hospital aims for ground breaking in early 2011.

D. Human Rights Conventions

47. The RMI is a party to the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The Women in Development Office and the Child Rights Office have been set up under the Ministry of Internal Affairs to implement the provisions of both conventions and ensure the fulfillment of RMI's obligation. The RMI submitted its initial country report as well as its 2nd Periodic Report to the UN Committee on the Rights of the Child, but has yet to do so with respect to CEDAW.

48. Although the RMI has ratified only 2 of the core human rights conventions, it is envisaged that the RMI will be in a better position to ratify other conventions. The fact of the matter is, however, that due to capacity and resource constraints, full implementation of the 2 human rights conventions ratified thus far has been difficult already. In the same token, it should be noted that where the construction of a written law is open to more than one interpretation, an interpretation which is consistent with the RMI's international obligations will be preferred. The goal to ratify other human rights conventions remains nevertheless.

E. Public Awareness and Training on Human Rights

49. While the RMI does have offices established to oversee the fulfillment of RMI's obligations to the CRC and CEDAW, there is no body or office specifically established to comprehensively address human rights. It is hoped, however, that with technical and financial assistance from the international community, such a national human rights institution will be established, or, alternatively, the establishment of a regional human rights office. Such an office would enhance RMI's public awareness and training efforts with respect to human rights.

50. Until such an office is realized, the Government and Non-Governmental Organizations have conducted various awareness programs on human rights, but only on specific thematic areas such as health, youth, and women issues. Despite being limited, it is important that these programs continue to assure awareness of at least these issues.

51. For the consultations on this Report, although people were aware of their rights, they did not fully understand what those were and role the Government played in ensuring the protection and promotion of those rights. More to the point, there is more awareness on land rights than other rights.

V. Identification of achievements and, challenges and constraints

A. Challenges

1. Climate Change

52. As an island nation with land only 2 meters above the sea-level, the adverse effects of climate change, particularly sea-level rise, are a human rights concern for the RMI. Not only are lives at risk, but livelihoods as well vis-à-vis food security, economic security, educational security and health security, amongst others. The jeopardy of livelihoods ultimately leads to poverty, loss of land, loss of custom and culture and loss of identity which more often than not targets the most vulnerable groups, i.e. women and children.

2. Nuclear Legacy

53. Section 177 of the 1986 Compact of Free Association was to serve as a political settlement under Section 177 for claims to personal and property damages. Established thereunder is the Nuclear Claims Tribunal (NCT), which was to adjudicate these claims and make the appropriate awards. It was later determined that the settlement was inadequate given that the NCT was only able to pay out $3.9 million of the $2.2 billion awarded, which represents less than 2/10 of 1% of its awards. This is the current situation despite the fact that the total yield of the 67 atomic and hydrogen land, sea, and atmospheric bomb tests on Bikini and Enewetak Atolls were equivalent to an average of more than 1.6 Hiroshima bombs per day for that 12-year period. The fallout from the Bravo Shot alone covered an area of 50,000 sq. miles, which should take into account that the RMI covers an area of 750,000 sq. miles.

54. In 2000, the RMI Government submitted its Changed Circumstances Petition (CCP) to the U.S. Congress to seek additional funding as provided for under Article IX of Section 177 should the aforesaid settlement prove to be "manifestly inadequate". Following Congress' request to recommend the appropriate action, the U.S. State Department recommended to Congress not to take any action. This position was the same subsequent to the signing of the Compact of Free Association, as amended, in 2003, as the U.S.

renegotiating team refused to open discussions on Section 177. To date, this position has not changed despite the 2004 Nuclear Cancer Institution Report anticipating more potential cancer cases. Another report submitted by the U.S. Department of Health and Human Services entitled "Reducing Environmental Cancer Risk, What We Can Do Now" states that the U.S. Government has not met its obligation in address the healthcare needs of the Marshallese people resulting from its nuclear testing program.

55. By not addressing the CCP, human rights violations continue to plaque a large number of Marshallese, namely those from the 4 Atolls[4], who were adversely affected by the U.S. NTP. Most of the people from the 4 Atolls continue to be displaced, and some will never return to their islands as some were vaporized and so no longer exist. Furthermore, other than those who were residing on Utrik and Rongelap Atolls during the Bravo Shot, those with radiogenic illnesses are not receiving the medical attention that they require, and usually bear the medical costs or have to be referred using Government funds. Deprivation of property without just compensation is another result, not to mention loss of customs and culture.

3. Health

56. The adverse health and medical effects of the United States Nuclear Weapons Testing Program have proven to be an added burden to an already under-resourced Ministry of Health, particularly for those patients who have contracted cancer and cancer-related ailments. Even for patients enrolled in the Department of Energy (DOE) Medical Program under the Compact of Free Association, the RMI hospitals treat them for primary and secondary healthcare.

57. Under the Compact of Free Association, RMI citizens are allowed to freely enter, reside, and work in the U.S. and its territories, and authorized to participate in certain federal programs, including eligibility in Medicaid as aliens permanently residing under color of law in the United States and its territories. The U.S. Personal Responsibility and Work Opportunity Act of 1996 disqualified FAS citizens from many public benefits, including Medicaid coverage. Consequently, it was up to individual states and territories within the U.S. to decide whether or not to allow RMI citizens under their respective medical insurance policies. The State of Hawaii, which has a large Marshallese population that resides, works, pays both federal and state taxes, and contributes to their communities, will, on 01 July 2010, no longer shoulder the financial responsibility of providing chemotherapy and dialysis treatments to Marshallese citizens except for emergencies. Needless to say, these are life-saving treatments, and the termination thereof would remove a critical social safety net that is afforded to other migrants to the U.S.

58. Following the 9/11 attacks on the U.S., immigration provisions under the Compact of Free Association had become more strict, disallowing RMI citizens from entering the U.S. if they are convicted felons. Although this would normally be understandable, it becomes a human rights issue when involving referral patients seeking necessary and urgent healthcare given that the only entry/exit points are Guam and Hawaii.

59. Given that approximately 1/3 of the RMI population resides on Majuro and Ebeye, overcrowding cannot be overlooked as most migrants from the rural areas reside with relatives, most of who already have difficulty making ends meet. Overcrowding also makes the residents of these urban centers susceptible to diseases such as the cholera outbreak in

[4] The 4 Atolls comprises of Bikini Atoll, Enewetak Atoll, Roneglap Atoll, and Utrik Atoll, all of which are recognized by the U.S. under the Compact as being radioactively contaminated following the U.S. testing program.

late 2000 and the tuberculosis outbreak in 2010. Access to adequate healthcare and education worsens. Limits to food security and livelihoods are also caused.

4. Education

60. With Compact funding decreasing annually, it is difficult for the Ministry of Education (MOE) to maintain an appropriate budget let alone seek an increase.

61. Although MOE has continued its Teachers Certification and Licensing Program, it still has issues with enhancing instructional capacity and competency.

62. Improve secondary and transition education.

63. Expand post-secondary educational and employment opportunities.

5. Development Challenges

64. Limited Natural Resource Base (One of the development challenges of the RMI is its limited natural resource base, exporting mainly copra cake and copra oil and selling fishing licenses to distant-water fishing nations to fish in its exclusive economic zone (EEZ). Otherwise, the RMI is highly dependent on foreign assistance. In any event, this challenge consequently limits the right to adequate shelter and livelihoods.)

65. Remoteness of Atolls and Islands (As noted above, the RMI's 29 low-lying coral atolls and 5 and islands are scattered over 750,000 sq. miles of water. With international flights traveling to the urban centers of Majuro and Kwajalein Atolls, it is an on-going concern that the outer atolls will continue to be marginalized in terms of the delivery of services by the RMI Government. The sporadic services of the Air Marshall Islands (AMI) have caused the closing down of a private diving venture on Bikini Atoll. AMI continues to lose business, and survives on government subsidies. The consequent restrictions to human rights are two-fold. For rural populations, access to adequate health care, education, and livelihood options are some of the human rights adversely affected. Moreover, to gain better access to services, there is a large migration to the urban centers of Majuro Atoll and Ebeye Island[5], which causes over-crowding and further exacerbates conditions with respect to access to adequate health care, education, and livelihood options, rights that created the impetus for their migration in the first place.)

66. Limited and expensive access to the international market (The RMI has limited and expensive access to international market due to its location in the Pacific. Moreover, due to its size and as an atoll country, coconuts and breadfruit are the main crops, and mostly for subsistence purposes. This challenge restricts the right to adequate livelihoods.)

67. Limited land development (There is limited land development in the RMI due to size as well as social and cultural issues. All lands in the RMI are privately owned, and leases with the landowners[6] must be secured before any development can be made. Although there is a Land Registration Office, not all lands are registered, which either causes land disputes between or amongst rightful title holders or are a result of said disputes. Over-crowding due to migration from the rural areas also causes limited land development. Such limitation to land development leads to limits in access to livelihood.)

68. Shortage of qualified professionals (The shortage of qualified professionals such as doctors, nurses, teachers, and lawyers places limitations on the rights to adequate healthcare, education, and legal protection of one's rights, amongst others. For example,

[5] Although some further migrate to the United States, most remain on Majuro and Ebeye.

[6] As noted above, these are the Iroijlaplap, the Iroijedrik (if applicable), the Alab, and the Senior Dri Jerbal

there were only 17 criminal cases filed in 2009 due to the limited amount of police reports submitted and not enough lawyers at the Attorney-General's Office to cover all criminal matters.)

69. High cost of living (The cost of living in the RMI has risen in recent years, particularly due to the global financial crisis which dramatically increased the cost of fuel and food. Regardless, the minimum wage remains the same at $2.00 an hour as in past years. Consequently, access to health, education, food, and livelihood for the average Marshallese are adversely affected.)

70. Limited financial and technical resources (The last challenge for the RMI with respect to human rights is its limited financial and technical resources, and, therefore, its dependence on foreign assistance. The financial provisions under the Compact of Free Association, as amended, ends in 2023, and earnings from the Trust Fund of the People of the Republic of the Marshall Islands is supposed to address this end to financial support from the U.S. However, there have always been misgivings from the RMI Government that the Trust Fund and the financial formula as agreed to in 2003 would be insufficient to replace current levels of Compact funding. This sentiment was supported in a report submitted by the U.S. General Accounting Office in 2004. The situation was further exacerbated by the global financial crisis of 2008. Such limited resources places restrictions on access to health and education, and limits one's access to an adequate livelihood.)

B. Achievements

1. Climate Change

71. The Micronesian Challenge and the National Conservation Area Plan (It is internationally recognized that conservation of ecosystems plays a vital role in climate change because they provide natural carbon sinks. Healthy ecosystems also enhance the resilience of islands to the impacts of climate change. The National Conservation Area Plan for the Marshall Islands builds on the strategic priorities identified by the RMI National Biodiversity Strategy and Action Plan and provides the guiding principles to assist with National implementation efforts for the Micronesian Challenge. The conservation area planning process has recently incorporated tools for assessing vulnerability and adaptation options to the impacts of climate change at the community level. This achievement addresses food security and access to adequate livelihood.)

72. Renewable Energy—Climate Change Mitigation and Sustainable Livelihood (The RMI Government just recently completed its Energy Policy which supports renewable energy and climate change mitigation. The Energy Taskforce has prioritized updating the current policy to provide a comprehensive picture of the energy priorities in the RMI along with an Action Plan to guide implementation of those priorities. The mandate for Energy Planning activities rests with the Ministry of Resources and Development in collaboration with the Energy Taskforce headed by the Chief Secretary, EPPSO, OEPPC, MEC, Mobil and the AG's Office and others. There are two primary objectives of Renewable Energy activities in the RMI, which are (i) climate change mitigation through promotion of Renewable Energy; and (ii) sustainable livelihoods for the communities. With these objectives, activities for the electrification of the outer island are on-going. Electrification priorities are for schools, community centers, fisheries centers and households. Not only is access to livelihood addressed by this achievement, but access to healthcare and education as well.)

73. Copenhagen Accord (Over a decade ago, most countries joined the United Nations Framework Convention on Climate Change (*RMI ratified UNFCCC on October 9, 1992*) to begin to consider measures reduce global warming and to cope with inevitable temperature

increases. The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005. 184 Parties of the Convention have ratified its Protocol to date. The major distinction between the Convention and the Protocol is that while the Convention **encouraged** industrialized countries to stabilize greenhouse gas (GHG) emissions, the Protocol **committed** them to do so. In January of 2010, the RMI associated itself with the Copenhagen Accord on the understanding that the political progress be translated into an internationally legally binding instrument(s) under the UNFCCC to be adopted by the COP in 2010. While the Accord does not take into account concerns of the vulnerable countries, it does, however, offer a review mechanism of Annex I countries emission levels by the year 2015, and commits to further negotiations towards reaching a legally-binding international agreement prior to the expiration period of the Kyoto Protocol in 2012. In addition, the Accord establishes a Green Fund to the tune of 10 billion dollars from various sources for adaptation and mitigation to the impact of climate change.)

2. Nuclear Legacy

74. The RMI Government has been persistent in its statement to the U.S. Government that the latter is morally obligated to address the lingering effects of its nuclear testing program. Dealings with the U.S. Congress have been more successful with both the House and Senate considering a Bill entitled "provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, and for other purposes". This Bill, if passed by Congress would provide additional funding for health concerns related to said program; recognize that nuclear contamination was not limited to the 4 Atolls; require the U.S. Department of Energy to monitor the integrity of the Runit Dome on Enewetak Atoll; include Marshallese who were involved in the clean-up on Bikini and Enewetak Atolls to be compensated under the Energy Employees Occupational Illness Compensation Program Act of 2000; and require the National Academy of Sciences to analyze the health impacts of the nuclear testing program on the Marshallese people. Although the Bill does not fully address the 2000 Changed Circumstances Petition, the RMI Government feels that this is the first real step the U.S. has taken to address outstanding nuclear issues, which would address loss of property and access to adequate healthcare.

3. Health

75. The Cabinet appointed a Committee to look into the living conditions of Marshallese communities residing in the U.S. and report on, amongst others, health and social concerns raised by the U.S. Government in media and government reports. In spite of time and financial restrictions, the Committee was able to innovate and develop a report as instructed using the Marshallese communities in Arkansas and Hawaii as case studies to represent the living condition of the average Marshallese residing in the U.S. It is anticipated that said report will be submitted to the Cabinet before the submission of this UPR Report.

76. The Ministry of Health continues to address financial and human resource limits in providing sufficient healthcare to the people. It has developed standard operating procedures (SOPs) in responding to medical emergencies such as SARS, H1N1, and TB outbreaks, with a health task force to implement these SOPs. The Communicable Diseases Prevention and Control Act was recently amended to give more authority to the Director of Public Health with respect to the quarantine and treatment of patients with communicable diseases. In addition to the referral destinations in the U.S., Philippines, and the Republic of China (Taiwan), the Ministry is currently in the process of developing an agreement to be considered by the Government of Japan for one of the latter's hospitals to provide referral services for Marshallese patients.

C. Constraints

1. Limited Financial and Technical Resources

77. The RMI has limited financial and technical resources, and is therefore dependent on foreign assistance. The financial provisions under the Compact of Free Association, as amended, ends in 2023, and earnings from the Trust Fund of the People of the Republic of the Marshall Islands is supposed to address that termination of financial support from the U.S. However, there have always been misgivings from the RMI Government that the Trust Fund and the financial formula as agreed to in 2003 would be insufficient to replace current levels of Compact funding. This sentiment was supported in a report submitted by the U.S. General Accounting Office in 2004. The situation was further exacerbated by the global financial crisis of 2008. Such a constraint places restrictions on access to health and education, and limits one's access to an adequate livelihood.

2. Limited Human Resource Pool

78. As noted above, the policy of the RMI Government with respect to education is to ensure that the student is self-reliant wherever he or she may be. This policy notwithstanding, the RMI still has a limited human resource pool due not only to the level of education or training attained but also because of the brain-drain of educated and skilled Marshallese seeking better paying employment in the U.S. A perfect example of how this constraint affects human rights in the RMI is the difficulty in fully implementing the CRC and CEDAW given the limited personnel to carry out this undertaking.

3. External Shocks

79. The 2009 global financial crisis exemplifies the susceptibility of the RMI is to external shocks. On 03 July 2008, a State of Emergency was declared to address the severe fiscal constraints due to what was then the escalating cost of fossil fuel product prices and its adverse impact on the cost of staple foods items in the RMI. This State of Emergency was later extended on 14 August 2008 by the Cabinet upon the recommendation of National Disaster Committee. Although the national utility company was able to provide energy following government intervention to the international community, and the Energy Policy was developed in the interim, it is the consensus of the Energy Taskforce that the RMI is not out of the woods yet, and in fact the situation will only get worse. This vulnerability limits one's access to adequate healthcare and education as well as access to food and livelihood.

4. Limited Natural Resource Base

80. The RMI is constrained by a limited natural resource base, exporting mainly copra cake and oil and selling fishing licenses to distant-water fishing nations to fish in the exclusive economic zone (EEZ) of the RMI. Otherwise, the RMI is highly dependent on foreign assistance. In any event, this challenge consequently limits the right to adequate shelter and livelihoods.

5. Remoteness of Atolls and Islands

81. As previously mentioned, the RMI consists of low-lying coral atolls (29) and islands (5) in the central Pacific with a total land area of approximately 181 sq. km scatted over 750,000 sq. miles of water. With international flights traveling to the urban centers of Majuro and Kwajalein Atolls, it is an on-going concern that the outer atolls will continue to be marginalized in terms of the delivery of services by the RMI Government. The sporadic services of the Air Marshall Islands (AMI) have caused the closing down of a private diving venture on Bikini Atoll. AMI continues to lose business, and survives on

government subsidies. The consequent restrictions to human rights are two-fold. For rural populations, access to adequate health care, education, and livelihood options are some of the human rights adversely affected. Moreover, to gain better access to services, there is a large migration to the urban centers of Majuro Atoll and Ebeye Island[7], which causes over-crowding and further exacerbates conditions with respect to access to adequate health care, education, and livelihood options, rights that created the impetus for their migration in the first place.

VI. Key national priorities and initiatives and commitments

A. Priorities

82. The RMI national strategy contained in the Vision 2018 provides that the goal of the RMI is "to become a country within an inter-dependent world, with an enhanced socio-economic self-reliance, an educated, healthy, productive, law-abiding and God-loving people in which individual freedom and fundamental human rights are protected and culture and traditions are respected and development and environmental sustainability are in harmony".

B. Initiatives

83. On 09 September 2009, the Cabinet approved the establishment of the Resource Development Committee (RDC) to initiate reports and ensure proper implementation of the RMI's obligations vis-à-vis human rights convention, namely the CRC and CEDAW. The RDC is also the driving force behind this Report.

84. All government ministries/agencies/offices that utilize Compact funding have their individual strategic plans in place.

85. On 06 May 2010, the Cabinet approved the establishment of the National Development Plan Workgroup whose responsibilities would include ensuring that the RMI Government fully meets its obligations under the UN Millennium Declaration of 2000. The Workgroup is in the process of developing the National Development Plan.

C. Commitments

86. The RMI is committed to fulfilling its human rights obligations under the CRC and CEDAW and continuing to adhere to the Universal Declaration on Human Rights as well as the United Nations Charter. Due to capacity and resources issues, the RMI has yet to ratify the other core human rights conventions, but is considering doing so.

VII. Assistance consideration to the international community

87. Implicit in the above is the significance and relevance of upholding one's dignity and the universality of human rights by the RMI Government. It is with this in mind that the RMI Government requests the international community to provide the following:

[7] Although some further migrate to the United States, most remain on Majuro and Ebeye.

(a) Technical and financial assistance for capacity-building of public servants and Government elected officials with respect to implementation of human rights in the RMI; and

(b) Technical and financial assistance in improving public awareness programs of both the Government and NGOs with respect to human rights of the Marshallese people.

88. Technical and financial assistance for the RMI to address climate change, educational, and health issues.