

Marshall Islands

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 23 May 2013



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

http://followup.upr-info.org/index/country/marshall_islands

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

6 stakeholders' reports were submitted for the UPR. 5 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. No National Human Rights Institution (NHRI) does exist.

3 NGOs responded to our enquiry. None of the UN agencies did respond. The State under Review did not respond to our enquiry either.

The following stakeholders took part in the report:

1. **NGOs:** (1) Earthjustice & Human Rights Advocates (EJ+HRA) (2) Women United Together in the Marshall Islands (WUTMI)

IRI: 0 recommendation is not implemented, 4 recommendations are partially implemented, and 6 recommendations are fully implemented. No answer was received for 58 out of 68 recommendations and voluntary pledges.



2. Feedbacks on recommendations

ESC Rights

Recommendation n°53: *Take a rights-based approach to adaptation to climate change* (Recommended by *Maldives*)

IRI: *fully implemented*

EJ+HRA response:

Despite its limited capacity to minimize the effects of climate change on its citizens, the Republic of the Marshall Islands (RMI) has taken steps to contribute to the protection of human rights from climate threats. Examples include:

- In 2010, RMI held a series of public consultations and workshops to develop its Climate Change Policy.
- In 2011 the RMI published its National Climate Change Policy Framework, concluding:

The Republic of the Marshall Islands (RMI) believes that climate change is real and is the greatest threat to our low lying atolls and people. Negative effects are already taking place and these will gravely undermine our efforts towards sustainable development and threaten our survival and the sovereignty of our nation and people. While longer-term impacts such as sea level rise could result in the unavoidable out-migration of some of our people, we have a right to pursue any and all means to ensure our nation survives and our legacy remains in these islands, with our future generations living productive lives on these islands. Climate change is a cross-cutting development issue as it affects every aspect of the Marshallese way of life and livelihoods. Climate change impacts exacerbate existing cultural and socio-economic vulnerabilities. These impacts threaten the security of our nation.

To this end, the people of RMI must collectively build and strengthen our nation's resilience to combat climate change. However, we cannot do this alone; regional and global cooperation is imperative to put RMI on a pathway to climate change resilience and sustainable development.

The RMI is of the view that the scientific underpinnings of the discussions on climate change are clear in defining impact thresholds. Therefore, international cooperation is required. Any failure to reach an agreement to radically cut emissions would jeopardize our development and survivability.



- The RMI has designed gender-sensitive criteria and indicators for its national adaptation activities' work plans for 2013 in order to measure impacts and benefits of activities at national and community levels. This is an element of its participation to the Pacific Adaptation to Climate Change Project of the Secretariat of the Pacific Regional Environment Programme (SPREP).
- At the beginning of 2013, the Marshall Islands High School science department concluded a project to integrate climate change studies within local education programs.
- In 2012, RMI urged the UN General Assembly to ensure rapid attainment of legally binding agreement curbing global warming gasses. RMI President Christopher Loek stated, "The time is now over for endless North-South division, and all-too predictable finger pointing must end."
- On 15 February 2013, in a Security Council meeting called "Arria Formula" on security implications of climate change, RMI urged the UN Security Council to consider climate change as a threat to international peace and security, particularly for such low-lying nations such as the Marshall Islands.

Nevertheless, no amount of effort on the part of RMI will fully protect the human rights of the people of the Marshall Islands, as long as climate change continues to:

- threaten the physical security and health of coastal communities (most of the population) with increased temperatures, sea level rise and increasingly severe storms and cyclones resulting in tidal surges, lowland flooding, beach and mangrove erosion, and the spread of vector-borne diseases;
- threaten access to freshwater by increasing extremes of temperature and precipitation, increasing instances of drought, and by causing salt-water intrusion into groundwater due to lowland flooding and coastal erosion; and
- jeopardize food security by impeding the agricultural capacity of the islands and damaging ocean ecosystems such as reef fisheries on which the people of RMI rely for food.

These threats are negatively impacting the rights to food and water, the right to health, and the right to a healthy and sustainable environment for the people of the RMI.

In light of these harms, it is impossible for a nation like RMI, with limited resources and minimal contribution to climate change, to guarantee full protection of the human rights of its people. The primary responsibility for the harms to the human rights of the people of RMI caused by climate change falls not on the national authorities of RMI, but on the States most responsible for past and current emissions of climate pollutants. These polluting States must take responsibility for their share of the impacts of climate change on the enjoyment of the human rights of the people of RMI, implement effective measures to substantially reduce their emissions, and provide financial, technical and other support for measures to minimize the effects of climate change on the human rights of the people of RMI.



In sum, climate change poses serious threats to the enjoyment of human rights in RMI. Under international law, the primary obligation to prevent and minimize those threats lies with the nations that are responsible for the majority of historical and current emissions of global warming pollution. We encourage the Human Rights Council to recognize this obligation in the context of the Universal Periodic Review of the Marshall Islands.

SOGI

Recommendation n°37: *Reinforce constitutional protections against discrimination to include sex, disability, sexual orientation and gender identity as prohibited grounds for discrimination (Recommended by Canada)*

IRI: *partially implemented*

WUTMI response:

WUTMI and the Ministry of Health are working on a law reform to address stigma and discrimination around People Living with HIV/AIDS, and this would include measures to protect against discrimination because of sexual orientation and gender. This will also benefit women and young girls.

Women & Children

Recommendation n°22: *Prioritize legislation on women's rights and domestic violence, and implement domestic policies aimed at eliminating violence against women (Recommended by Australia)*

IRI: *fully implemented*

WUTMI response:

In September 2011 the Domestic Violence Prevention and Protection Act (DVPPA) was passed. Initiated by the then-Vice Speaker of the House, WUTMI assisted with the drafting and organized consultations with the community, government officials, and regional partners like Pacific Regional Rights Resource Team (RRRT). The Act ensures reporting, proper investigation and prosecution. The Act also provides for protection orders.

Recommendation n°23: *Establish a national strategy to combat violence against women and girls, and take appropriate measures for coordinated, multisectoral responses in this regard (Recommended by Canada)*

IRI: *partially implemented*

WUTMI response:

A Task force is being established to implement the DVPPA. The Task Force will take a multisectoral approach to combat violence against women by coordinating the implementation of the DVPPA across ministries and sectors.



Recommendation n°24: *Develop a national plan of action to combat violence against women* (Recommended by *New Zealand*)

IRI: *partially implemented*

WUTMI response:

The task force stated in recommendation 23 will be in charge of developing multisectoral plan of action to combat VAW.

Recommendation n°25: *Implement a system to counter domestic violence against women, and ensure that the perpetrators of such violence are prosecuted and appropriately punished* (Recommended by *France*)

IRI: *partially implemented*

WUTMI response:

Under the DVPPA there are provisions to ensure proper reporting and investigation of acts of violence against women (and other acts of domestic violence). There are also provisions for prevention of violence through protection orders. Proper reporting and investigation as called for under the DVPPA will encourage prosecution of perpetrators. Currently, this is an issue because some cases that make it to the prosecution stage end up being dismissed because of insufficient reporting and investigation. One area where work remains to be done is to ensure that penalties are appropriately severe. There is serious talk of amending the Act to address these issues.

Recommendation n°26: *Incorporate domestic violence into its criminal laws* (Recommended by *Slovakia*)

IRI: *fully implemented*

WUTMI response:

The RMI criminal code includes rape, sexual assault and assault in general. The DVPPA complements the criminal code in regards to rape and sexual assault

Recommendation n°27: *Develop and strengthen the domestic legislation and policy on the protection of women and children with the aim of reducing incidences of exploitation of women and children and violence against women* (Recommended by *United States*)

IRI: *fully implemented*

WUTMI response:

In September 2011 the Domestic Violence Prevention and Protection Act (DVPPA) was passed. Initiated by the then-Vice Speaker of the House, WUTMI assisted with the drafting and organized consultations with the community, government officials, and regional partners like Pacific Regional Rights Resource Team (RRRT). The Act ensures reporting, proper investigation and prosecution as well as providing for protection orders. The RMI recently launched the report on the Child Protection Baseline Research and recommendations made from that research include comprehensive legislation and policies to protect children in the Marshall Islands. The report for the Family Health and Safety Study which measures the prevalence of violence against women will be launched in November and preliminary recommendations include national policies and stronger legislation to better protect women and young girls from any form of violence.



Recommendation n°29: *Facilitate the active involvement of civil society stakeholders, including human rights non-governmental organizations, in the follow-up to this review, especially to address violence against women and children and child abuse (Recommended by United Kingdom)*

IRI: *fully implemented*

WUTMI response:

WUTMI is a human rights NGO. The Ministry of Internal Affairs is one of our (WUTMI) partners who have approached us for anything relevant to VAW, CEDAW, CRC and will most likely include the follow-up to this review as WUTMI is the sole entity in the RMI to address VAW/DV.

Recommendation n°38: *Develop a comprehensive policy, consistent with the provisions of CEDAW, to ensure that there is effective gender equality, and fight genderbased violence while monitoring cases of such violence, and study the reasons why they are rarely reported to the authorities (Recommended by Spain)*

IRI: *fully implemented*

WUTMI response:

A recent study to measure the prevalence of VAW in the RMI titled Family Health and Safety Study will indicate recent numbers of VAW/DV in the RMI, therefore will be used to lobby for government to prioritize eliminating VAW as it impacts the well-being of our nation. WUTMI continues to work with government ministries to gain their interest and commitment to the issue.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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