

**Joint Submission of the UN Country Team for Palau for the UN Compilation
Universal Periodic Review of Palau
24th Session, Jan-Feb 2016**

Introduction

1. As Palau prepares for its second cycle review of the UPR in 2016, this submission is made by members of the Pacific Regional Offices that cover Palauⁱ. While the submission provides available information, it does not attempt to provide a comprehensive review of the human rights situation in Palau.
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 the 2011 UPR recommendations. It also encourages the Government to use the outcomes of the second review to further the enjoyment of human rights in Palau.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. Palau has acceded to and ratified only two of the nine international human rights conventions and it remains a signatory to the remaining seven treatiesⁱⁱ. Since the last UPR, Palau ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2013.
2. **The UNCT recommends that Palau ratify and accede to the remaining seven international human rights treaties and their optional protocols.**
3. Since its last UPR, Palau became a member of the International Labour Organization (ILO) in 2012 and ratified the Maritime Labour Convention, 2006. Apart from this Convention, Palau has not ratified the eight fundamental conventions of the ILO. **The UNCT recommends that Palau ratify and implement the eight fundamental Conventions of the ILO.**

B. Constitutional and legislative framework

A. Institutional and human rights infrastructure and policies

1. Palau does not have a National Human Rights Institution (NHRI). At the 2011 UPR, Palau accepted recommendations to establish an NHRI [61.5-61.13]. The Palau Executive Order 368 provides for the creation of a Reporting Committee on United Nations Conventions on Human Rights. The duties of the committee are limited to compliance with reporting obligations of Palau to international treaties. **The UNCT continues to encourage Palau to establish an independent NHRI to lead, coordinate, provide capacity development and assist with strengthening human rights implementation throughout the country. The UNCT encourages Palau to seek the support of the UN in this regard.**
2. The International Conventions that Palau has ratified – the CRC and CRPD – have not been incorporated into the Palau National Code.

3. The CRC is yet to be enacted into the Palau National Code by the Palau National Congress (*Olbiil Era Kelulau*). Legislation to provide for the full protection of children is yet to be enacted in Palauⁱⁱⁱ. **The UNCT encourages the Government of Palau to incorporate the provisions of the CRC into the domestic legal system.**
4. There is currently no overarching agency or institution that takes a lead role in policy development and monitoring service to ensure protection of children. **The UNCT encourages Palau to establish a national body to develop and coordinate services for addressing the rights of children and child protection issues.**

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with international human rights mechanisms

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A. Equality and non-discrimination

5. Under the Constitution of Palau, women are afforded equality of opportunity with men. Customary law has constitutional status in Palau, and the application of customary practices influences formal criminal procedures.
6. Palau has not ratified CEDAW, but remains a signatory. In early 2008, a resolution to ratify CEDAW was approved by the Senate but it was not approved by the House of Delegates. There remains feeling from influential traditional leaders that sections of CEDAW are not applicable to Palau and that it is an imposition of issues and context being imposed on Palauans. **The UNCT encourages Palau to ratify CEDAW.**
7. Palau has taken steps to address Domestic Violence (DV) and child abuse in the country. In 2012, Palau passed the Family Protection Act. The FPA criminalizes domestic violence, institutes a no-drop policy for domestic violence and stipulates that customary restitution for DV cases does not do away with criminal charges for DV.
8. The FPA provides for a broad definition of domestic violence, makes protection orders accessible and highlights the need for the establishment and coordination between services for survivors of violence. More specifically, the Act expands on and strengthens the ability of police officers to assist family violence victims and outlines legal penalties for acts of family violence and abuse. There are several important areas that are not addressed in the FPA: the definition of rape is limited to sexual intercourse and spousal rape is still exempt from prosecution. The common law rule requiring proof of physical resistance in order to prove absence of sexual consent is still applied, as is the defence of reasonable belief that a victim was of lawful age of consent.^{iv}

9. At present, although protection measures are outlined in the FPA, there are no protection measures in place, specifically shelters and other services to support victims and especially for women and children survivors. **The UNCT encourages that the Government establish protection services for survivors of domestic violence and child abuse.**
10. Palau does not have legislation on sexual harassment, human trafficking or sex tourism.
11. **The UNCT commends the passing of the Family Protection Act and encourages the Government of Palau to raise awareness and advocacy among targeted audiences for greater understanding and knowledge of the provisions of this legislation. The UNCT urges the Government of Palau to develop legislation to address the issues of human trafficking and sex tourism, and to repeal discriminatory provisions in the Penal Code.**
12. In 2011, Palau amended the National Code to include penalties for mandatory reporters for failing to report incidences of child abuse.
13. Palau has commenced the development of a National Gender Policy with support from the Secretariat of the Pacific Community (SPC). The Gender Policy will be driven by empowered communities and will build upon social networks to communicate, coordinate, share data, funds and knowledge. The Gender Policy is perceived to be a part of a wider sustainable development strategy. It will be informed by the culture policy and will in turn inform the energy, transportation and trade policy, the sustainable land management, water and food security policy, the health policy and the climate change and disaster risk policy.
14. Palau revised its Penal Code and decriminalized consensual same sex sexual activity in April 2014. Prior to this, ‘sodomy’ was a crime under section 2803, Chapter 28 of Title 17 of the Palau National Code. In 2011, Palau had accepted recommendations to decriminalize sexual relations between consenting adults of the same sex [62.38-62.40].

Right to life, liberty and security of the person

15. In December 2012 and November 2013, super typhoons ST Bopha and ST Haiyan devastated communities throughout Palau and State of Emergencies were declared on both instances. These natural disasters displaced hundreds of people, completely damaged homes and public infrastructure and destroyed livelihoods. There were no reports of fatalities from these super storms. The Palau Government sought assistance from UNOCHA and IFRC for emergency responses planning. UNDP also assisted the Government with early recovery planning efforts and the Government directly took on the recovery efforts.

Administration of justice, including impunity, and the rule of law

16. The United Nations Development Programme in partnership with the United Nations office on Drugs & Crime (UNODC) have been supporting the Government of Palau in its implementation of the UN Convention Against Corruption (UNCAC), specifically on provisions for Criminalisation and Law enforcement (under Chapter III) and International Cooperation (under Chapter IV).

17. Palau recently underwent a peer review process under the UNCAC review mechanism in April 2015 and a number of successes and challenges were identified in the implementation of the two chapters. Importantly, a number of recommendations^v were also put forward by the two State parties (Malaysia and Cambodia) that reviewed Palau. **The UNCT encourages the Government of Palau to consider the recommendations made under the UNCAC review mechanism, and to develop a timeline for its progressive implementation.**

Right to participate in public and political life

18. Palau has a bicameral Congressional system. The House of Delegates has 16 members, representing the 16 States of Palau. Delegates are elected through a first-past-the-post electoral system. There are no women Delegates. The Senate has 13 members, 3 of whom are women, and are elected from a common roll across the entire country. Elections are held every 4 years for both Houses.

19. Although Palau is a matrilineal country, historically, women's representation in the national Congress has been limited.

20. UNDP in partnership with the national Congress, and Ministry of Community & Cultural Affairs have facilitated two 'Practice Parliaments for women leaders', in 2011, and 2013 respectively, as a way of demystifying the role and work of parliaments to women leaders, and to the public in general, and also to showcase the leadership and capacity of women as potential 'Delegates' and 'Senators' in the lead up to national elections. The two Practice Parliaments for women leaders received national media attention, as well as praise and criticism from the public, but have triggered national discussions on the issue the need for gender balance in Congress. **The UNCT encourages the Government, and Congress to promote the national dialogue and awareness raising on the issue of gender equity in decision making at the highest levels of government and in Congress, and to develop policies to promote women's participation in national decision making structures and processes.**

Right to work and to just and favorable conditions of work

21. Palau requested ILO technical assistance to undertake a review of labor legislation and make recommendations to assist in the realization of key ILO standards. The Government of Palau has been actively engaged on a programme of work to review its labour laws with technical assistance from the ILO.

22. **The UNCT recommends strengthened Government effort to improve the situation of workers to have adequate protection against acts of anti-union discrimination in respect of their employment, especially migrant workers.**

Right to health

23. In 2011, Palau stated that Non Communicable Diseases (NCDs) were a national health emergency^{vi}. Palau has developed the NCD Strategic Plan 2015-2020 to address the occurrence and effects of NCDs on communities and in 2015 an Executive Order No. 379 was signed which authorizes the establishment of an NCD coordination mechanism. **The UNCT encourages Palau to seek support from the UN to combat the occurrence and impacts of NCDs.**
24. Palau has a comprehensive national policy, the Palau Public Health Strategic Plan 2008-2013, that addresses sexual and reproductive health services at no or minimal financial cost. This includes universal access to quality reproductive health services for women and young people including girls. UNFPA supports the country through the provision of reproductive health commodities including contraceptives at no cost. In addition, capacity development is being undertaken amongst health staff to ensure that women and men have an informed choice of the contraceptive methods they use. **The UNCT recommends that Palau allocate dedicated funds to procure some of the essential reproductive health commodities, and limit the dependency on outside sources, which could affect the health of Palauans especially women and girls.**
25. Palau criminalizes prostitution as stated in the Palau National Code under the Crimes Anti-Prostitution Act. This could drive the practice underground and make it more difficult to assess and treat sexual reproductive health conditions including HIV and other Sexually Transmitted Infections which invariably aids the spread of these conditions.
26. Palau has a high migrant population, which are mainly young males seeking employment to remit back home. Some work is needed to assess the Reproductive Health needs of this group and ensure that their needs are captured by the national health system. This takes into account the fact that this could be a risk group for HIV and other Sexually Transmitted Infections due to sexual contact with sex workers and unsafe sexual practices.
27. With the results of the national Family Health and Safety Study released in 2014, discussions are underway on how to ensure that the health system is more responsive to Gender-based Violence. This includes more relevant and sensitive data collection and patient information system, development of service guidelines and protocols, allocation and development of dedicated health staff and enhanced advocacy and awareness at the community level.

Persons with disabilities

28. The Palau Government has developed a National Disability Inclusive Policy 2015-2020 which is awaiting endorsement. **The UNCT encourages the Government to endorse and implement the national disability policy in line with international standards on the rights of persons with disabilities.**

Right to development and environmental issues

29. Palau is extremely dependent on imported petroleum products. The Government of Palau has long recognised the need for energy conservation and other measures, as exemplified by the

Presidential Executive Orders 132^{vii}, 234^{viii} and 350^{ix} to ensure reduction in the cost of energy given its heavy reliance on imported fossil fuel for energy production.

30. In 2009, the Government in partnership with UNDP have worked to contribute to the reduction of the growth rate of Greenhouse gas (GHG) emissions from diesel-based power generation in Palau. The joint project on '*Sustainable Economic Development through Renewable Energy Applications (SEDREA)*'^x aims to reduce consumption of imported fossil fuel through the widespread application of Renewable Energy Technologies (RETs), not only to meet the electricity needs of the country but also provide the other energy requirements for productive uses in the other major sectors of the national economy. The project ended in 2013 and its main outcome was the effective utilization, and realization of benefits from the use of the country's feasible Renewable Energy (RE) resources.
31. In 2014, the government commenced work on a draft Energy Act for Palau. A National Energy Policy has been in place since 2010. These policies will among other things, address institutional arrangement issues with the Palau Energy Office, coordination issues with the Palau Public Utilities Corporation (PPUC) and align the various pieces of legislations relating to the electricity sector, renewable energy and other relevant regulations. **The UNCT encourages the Palau Congress to consider and have robust discussions on the Palau Energy Bill that has been submitted to Congress following wide public consultations facilitated by the Palau Energy Office.**

ⁱ OHCHR Pacific Regional Office, UNWomen, UNFPA, UNDP and ILO

ⁱⁱ Palau has acceded to and ratified only the CRC and CRPD. It is a signatory to CEDAW, CRPD, ICCPR, ICESCR, CRMW, CAT or CPPED. Palau has not ratified any Optional Protocols.

ⁱⁱⁱ UNICEF, AusAID and the Government of Palau, 2014, The republic of Palau child protection baseline report. http://www.unicef.org/pacificislands/Palau_CPBR_Final_April_2014.pdf

^{iv} <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1500571e.pdf>

^{vi} Executive Order No. 379, 2011, Declaring a state of health emergency on NCDs within the Ministry of Health and ordering the Minister of Health to immediately establish programs to stop, reduce and eliminate incidences of NCDs. <http://www.pihoa.org/fullsite/newsroom/wp-content/uploads/downloads/2012/06/Palau-NCD-Declaration-Ex-295.pdf>

^{vii} Presidential Directive No. 04-005, 7 December 2004.

^{viii} Presidential Directive No 234, September 2005.

^{ix} Presidential Executive Order 350, 17 October 2013.

^x [Terminal Evaluation of the Palau 'Sustainable Economic Development through Renewable Energy Applications \(SEDREA\)' project, \(2014\).](#)