

Joint Submission of the Marshall Islands Council of Non-Governmental Organizations (MICNGOS) comprising of at least 15 x active members for the 3rd Universal Periodic Review of the Marshall Islands

Monday October 7th 2019



Marshall Islands Council of Non-Government Organizations (MICNGOs)
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MICNGOs is a coalition of non-government organizations (NGOs) that includes a total of 192x local NGOS which include Civil Society Organizations (CSOs), Community Based Organizations (CBOs), the Private Sector and Faith Based Organizations (FBOs). MICNGOS was duly chartered in the Republic of the Marshall Islands (RMI) on July 31, 2003, as a non-profit non-government organization. We are also proud members of the Pacific Islands Association of Non-Governmental Organizations (PIANGO).

The founding members of MICNGOs, Inc. are: (a) Youth to Youth in Health, Inc., (b) Women United Together Marshall Islands, Inc., (c) WAAN Aelon in Majel, Inc., (d) Mission Pacific, Inc., and (e) Aelon Kein Ad Technical Support, Inc. These organizations share the following characteristics:

- θ Formally chartered in the RMI
- θ Community-based, non-profit organization
- θ Currently visible programs and projects in the RMI
- θ Documented substantive record of accomplishments
- θ Over sixteen years of experience operating as an active NGO
- θ Demonstrated success with multiple funding mechanism

Per its by-laws, MICNGOs has a Board of Directors and four levels of membership. The Board of Directors consists of a President, a First Vice President, a Second Vice-President, a Secretary, and a Treasurer. The four levels of membership are (i) Executive Members, (ii) Associate Members, (iii) Affiliate Members, (iv) Standing Members.

The Focus Areas/Goals are: Clearing House Platform; Organization Development; Development Effectiveness; Communications; Human Resources Development & Succession Planning

MICNGOS is in the process of applying for ECOSOC accreditation

A. Consultation process

1. MICNGOS is a member of the National Human Rights Committee and is aware and is part of the process where the Government of the Republic of Marshall Islands (GRMI) is in the process of hiring a consultant to compile its report for the UPR and other UN human Rights Treaties it has ratified and is due for reporting. This process will start in November but because NGO submissions are closing early, we would like to make this submission for now and hopefully in future submit more substantive submissions following our consultation with the Government departments, the private sectors and fellow member NGOS
2. Finding qualified and experienced personnel that are free and available to conduct the activity is a contributing factor to the delay in a UPR consultation that was to have eventuated prior to the NGO submission date.
3. This reality of a young republic like RMI must be reflected in the implementation of the UN treaties that have been ratified and will be the tone of this UPR Submission

B. The current normative and institutional framework of the country under review

4. The implementation of Human Rights in the RMI is handled by Government through the Ministry of Internal and Cultural Affairs (CIA) and supported in country by the Secretariat of the South Pacific Community (SPC) office of the Regional Rights Resources Trainers (RRRT) that has a focal point in country. Both offices have been working tirelessly to implement the obligations assumed by government upon ascending and ratifying the UN treaties and must be congratulated for the hard work in bringing the fulfilment of human rights to where it is for the citizens of the Marshall Islands
5. Upon the enhancement of the capacity of human rights personnel which will include seasons advocates, campaigners and lawyers, human rights activities will be elevated to a higher standard portraying itself as the new culture of the Marshall Islands. This is not to disregard the reputable work that has been continuously advocated by the women folks and WUTMI (Women United together in the Marshall Islands) which has brought a lot of great legislative changes that will have to be implemented and rolled out for citizens in Majuro and the 29 atolls of the Republic
6. This UPR will be restricted to this process of ratification, implementing and rolling out of these UN treaties which engages NGOs

(i) Constitutional Framework

7. The Constitution of the RMI has a Bill of Rights Chapter under Article II from section 1 to 17. This Bill of Rights is peculiar in a way as Section 17ⁱ is very inclusive and may recognise those rights that are not listed under the Bill of Rights Chapter, section 17 provides for the inclusion of developing human rights
8. However, the Bill of Rights Chapter does not have an enforcement provision
9. In addition to that is the issue of **implementation**. The language of the recommending countries and the UN Human Rights Council must be contextualised to the status of RMI. as in recommending that the GRMI take immediate action to accede or to immediately ratify such UN treaties and enact local legislation as part of its commitment through ratification has become a backlog for RMI
10. Upon acceding to a UN Treaty by signing, the UN Human Rights Council must assist countries like the RMI fulfil its series of obligations before it is expected to fulfil its legal obligations through local enactment. These series obligations include and in the process:

(a) Political Obligations - GRMI is meeting its political obligations to the UN family through the act of accession and signing. (b) The UN family must then assist Government meet its social obligation to the people of RMI but conducting public consultations where the citizens of the Marshal Islands through the process of FPIC consent to Government taking the next step (c) Economic Obligations – The UN Family must again help GRMI meet the financial obligation of aspiring to these new UN values by calculating and fundraising for the implementation and roll out of these conventions on their own before there is local consultation for local enactment (d) It is following these that there should be ratification where the RMI is expected to meets its legal obligation by ratifying and enacting local legislation. It is through this process that the processes are reflective of the development in human rights which includes *the right to a direct democracy, an application through Section 17 (Other Rights)* against the rights to representative democracy that is still being promoted

11. It is because of the pressure from the UN family that is making RMI doing its best to meets its international political obligations without the appropriate processes that will bring out the completion of the series of obligations that will enable the act of ratification and local enactment make GRMI's legal obligation a reality

(ii) Domestic Legal Protections

12. The current process highlighted above has fast-tracked local enactment without the citizens of RMI, owners of the RMI democracy not enjoying legal protection because not only do they not know of the legal provisions enacted but the stakeholders in the legal justice system also have not had the opportunity to appraise and accurately apply these protection
13. There are human rights protection laws for women, laws against domestic violence to protect women and children, laws to protect the disability, laws to protect children and some of these local legislations have been around long enough to have been amended or needing amendment.

(iii) National Human Rights Institution

14. There is 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
15. The culture of the locals is non-conformational. When it comes to human rights capacity building, a national decision through the process of Free Prior Informed Consent (FPIC) has to be followed so that the people of the Marshall Islands get to retain their development that are aligned to but not determined by international values as the context, status and culture is very different and these are also human rights issues for the locals

C. Achievements, best practices and priority areas of concern

16. Given those issues and challenges in finding and following the processes that suit small economies like the RMI, Government on its own and with the support of NGOs including

MICNGOS have to be accredited for choosing a complementary approach to the implementation of treaty obligations through the processes and legal protection enactment.

17. GRMI has fully funded MICNGOS for the very purpose of getting the NGO sector to be visible, robust and active in the consultations and negotiations in the fulfilment of human rights. These are decisions and actions unheard of in the Pacific region where Government and NGOs which are at most times at logger heads with one another adopt a complementary approach to fulfilling the human rights of the same people they claim to serve.

18. Human rights issues:

As an umbrella NGO MICNGOS human rights issues are those that it encounters through Government in the partnership and engagement in development. The actual human rights work on the ground are carried out by MICNGOS members. The absence of a national or NGOS UPR consultation has made this report based on purely MICNGOS human rights experience as an umbrella organization

- a. Uniformity of the creation of an enabling environment – Whilst the Office of the Chief Secretary has been very inclusive of NGOs in all development activities, that position is slowly spreading through Government and MIFNGOS has to conduct this process of capacity building for Government departments to not see NGOs as development implementers but development partners
 - b. Power-Sharing. MICNGOS has had to promote *the beauty of well-informed decisions through inclusive public consultations rather than the minority deciding for the majority*. This has enabled the traditional power brokers to accept the sharing of power with their subjects
 - c. Representative and Direct Democracy – included in this challenge is the old approach from representative democracy where the leaders get to decide for the followers. The promotion of direct democracy as a better form of democracy is slowly being appreciated and will bring about positive changes
19. Recommendation – it is recommended that the continued partnership and engagement between MICNGOS and Government in a complementary and non-confrontational manner will benefit the citizens of RMI 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.

D. Cooperation of the country under review with international human rights mechanisms

20. RMI is a country where given the fact that human rights advocates are initially Government employees, these employees promote the universality and absolute nature of human rights. In many jurisdictions, it is the human rights advocates from the NGOs and CSOs that promote human rights and Government being the ultimate guarantor is seeking the exceptions and limitations to these rights. In the Marshal Islands, Government itself is duty bound to meet these obligations herself
21. National UPR consultations still have to be implemented but because MICNGOS has been part of the National Human Rights Committee and has reviewed GRMI State reports on

- past treaties, and is part of the recent national Strategic Planning in all the sectors it is using information from these activities to inform its UPR submission
22. 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
 23. There is record of GRMI working with UN treaty bodies and Special Rapporteurs

E. Human Rights instruments and documents

24. GRMI has ratified most conventionsⁱⁱ. It is lagging in the ratification of some ILO conventionsⁱⁱⁱ
25. It had been stated earlier that in trying to satisfy its political and legal obligations, the RMI when compared to other Pacific Islands countries is one which has ratified and locally enacted many UN treaties and working towards meeting these obligations.

F. Recommendations

1. Contextualised application – the universality of human rights must be processed in a manner that fits the context of RMI to allow the meeting of international standards using local processes and procedures with local resources
2. Process of meeting it National Obligations – that the UN family supports RMI in the meeting of the series of obligations with the legal obligation as anchor and final
3. An enforcement provision of the Human Rights Bill – An enforcement provision will make local legislations ‘have supreme law’ status
4. Promotion of section 17 of the Human Rights Bill as inclusive – Section 17 of article II must be promoted as inclusive and very forward looking of the RMI Constitution
5. Enabling Environment – That GRMI has created an enabling environment for MICNGOS by funding it for the next 3 years is worth reporting as it works well in a complimentary and non-confrontational society
6. Power Sharing – the beauty of a well-informed decision is a good way of promoting power sharing and a democratic right that should be applied in every life
7. Direct Democracy – the promotion of direct democracy as practiced by Government through the Office of the Chief Secretary is one that has to be promoted to all arms of Government where there is robust and inclusive public consultation and responsive governance

ⁱ RMI Constitution Bill of Rights Article II - Section 17. Other Rights. The enumeration in this Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ⁱⁱ https://en.wikipedia.org/wiki/Category:Treaties_of_the_Marshall_Islands

ⁱⁱⁱ http://ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103414