

Report on the Federated States of Micronesia
9th Session of the Universal Periodic Review – November 2010

1. This report is submitted by: **SRIM** (Sexual Rights Information of Micronesia)¹ and **The Sexual Rights Initiative**². It deals with **sexual rights** in Micronesia and makes references specifically to **gender discrimination, early marriage, reproductive health, social perceptions of sexuality and sexual Abuse**.

A. Background

2. The Federated States of Micronesia is composed of the island states of Yap, Chuuk (Truk), Pohnpei (Ponape), and Kosrae, all in the Caroline Islands. The islands vary geologically from high mountainous islands to low coral atolls, with volcanic outcroppings on Pohnpei, Kosrae, and Chuuk. They are located 3,200 mi (5,150 km) west-southwest of Hawaii, in the North Pacific Ocean. A Constitutional government is in free association with the United States since November 1986.

3. The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. There are three branches of government: a president as chief executive and head of state, a unicameral legislature (Congress) elected from the four constituent states, and a judicial system that applies criminal and civil laws and procedures closely paralleling those in the United States. The legislature selects the president from among its four at-large senators (one from each state). There are no formal political parties. Each of Micronesia's four States has its own Constitution, elected legislature and Governor. The State governments maintain considerable power, particularly regarding the implementation of budgetary policies. Traditional leaders retain considerable influence in Pohnpei and Yap.

B. Legal Framework

4. The Federated States of Micronesia (FSM) legal and regulatory frameworks are a direct import of United States of America laws which were used during the Trust Territory of the Pacific Islands (TTPI) period. Human rights protection is provided for under the TTPI and FSM Codes.

5. The TTPI Code was used during the transitional phase of the Micronesian Government and up to the initial period following the formation of the FSM Government. The TTPI Code is a comprehensive legal document, embodying a full range of public and civil laws as well as other laws required for the upholding of democratic principles and for maintaining the rule of law in the nation³

6. The Constitution of the FSM is the expression of the sovereignty of the people and is the supreme law of the FSM. Individual or fundamental civil rights are fully protected

¹ **SRIM** works with reproductive and sexual rights in a wide range of areas: Documentation, publications, lobbying, advocacy, research and projects.

² Coalition including Action Canada for Population and Development (ACPD), Creating Resources for Empowerment and Action (CREA, India), Federation for Women and Family Planning (Poland), Mulabi - Latin American Space for Sexualities and Rights, and others.

³ Preamble to the Constitution of the Federated States of Micronesia 1975 [the Constitution]

under Article IV of the FSM Code⁴. Traditional rights are protected under Article V of the Constitution.

7. Low constitutional and legal literacy rates, lack of civic education programmes in the school system, under-developed and weak media, absence of independent national human rights institutions and prevalence of strong customary and traditional governance and leadership practices inhibit citizens from exercising their constitutional and human rights and freedoms to be heard or involved in development, governance and leadership processes at all levels. As a result, the citizens' right to develop culturally, economically, legally, politically and socially is compromised.

C. Main Issues

C.1 .Cultural norms and gender discrimination

8. The Micronesia is faced with a number of development problems rooted in its traditions and culture. In particular these include: lack of education, gender discrimination, gender based violence, and poverty. Negative traditional practices adversely affect the health of women and children and violate their bodily integrity and fundamental rights⁵

9. Females are discriminated against, resulting in less access to education, employment or land resources. The effects of poverty fall heavily on women and girls, leaving them very vulnerable to various forms of exploitation, as they are exposed to greater risk of physical and sexual abuse and often are not given adequate sexual health and reproductive rights advice. Even those girls who have access to education are usually not taught about reproductive health and they do not receive any empowerment training or education about children's and women's rights, because of taboos regarding sexual matters and beliefs that this kind of education will encourage sexual experimentation among school children.

10. "Culture" is frequently invoked as justification for discrimination against, and even violent and abusive treatment of, women and girls. However, the "customs" and "traditions" that are invoked are often distorted versions of the original, which have been modified to suit the needs of the males in the family. For example, some fathers have used the "tradition" of bride price as a reason for trading their daughters for cash or goods from transient logging and mining workers. Furthermore, some groups who did not practice it in the past have adopted the bride price tradition as a way of demanding cash for the marriage of a daughter.

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⁴ Legal information system, in www.fsmlaw.org/fsm/code/index.htm

⁵ The biggest challenge to the utility of Micronesian constitutions is their continuing incapacity to adequately address the conflict between custom and human rights. Micronesian constitutions do not recognize collective rights or duties, which are integral to the custom, practices and values. In practice, courts (which are often comprised of expatriate judges) are reluctant to use custom in their decisions because judges are unfamiliar with customs, and find it difficult to apply unwritten law. Therefore human rights are given more attention by the judiciary and customary law is often excluded from consideration.

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12. Women and girls in FSM face discrimination within the family. They have an unequal access to health care, education, vocational training, employment and income generation opportunities, and suffer a lack of inclusion in social and community activities

13. Another issue of concern is the under-representation of women in appointed and elected leadership, reflected in the absence of women in the FSM Congress since independence, and the predominant male control over the highest levels of the executive, legislative and judicial branches of national, state and municipal government, including the public service⁶.

C.2 .Early marriage

14. Early marriage is common in the Micronesia, and a significant age gap between an older husband and his young wife is considered culturally acceptable. Following the “tradition” of bride price, girls are regarded as a valuable resource to be traded between groups of men as brides in exchange for payments, which nowadays include cash. Early and forced marriages persists and the fertility rate remains high⁷. The imposition of early marriages results in early pregnancies and affects the psychological and sexual health and rights of women; their economic and social progress and encourages discrimination against girls. There are other problems associated with early marriage, such as early divorces that may be imminent on account of incompatibility. It also implies deprivation of youth: teenagers lose out on fun and frolic by marrying early. Since they have to shoulder responsibility at an early age, they do not have time for leisure and relaxation.

15. The death of an older husband or divorce often leaves the wife and her children without any means of financial support and with very few occupational choices. One problematic option is sex work, because of its violent and oppressive conditions in FSM. Additionally, if a girl is not married early she is often viewed as a drain on her parents’ resources and may feel pressured to contribute to the household.

E. Sexual Abuse

16. The dynamics around child sexual abuse make it go unnoticed and grossly under-reported. It is surrounded by a culture of silence and stigma, especially when it occurs within the “sanctuary” of the home. The child, whether a victim or not, is perceived as an insignificant minor with fewer rights than the adult perpetrator. If the perpetrator is a family member, then there is a strong element of denial and guilt. In such a scenario, the whole family acts like the proverbial ostrich and deny the incidence. Preserving or protecting the 'good' name and honour of the family becomes the number one priority of adults. It is evident that when the family or clan places higher premium on its collective interest vis-à-vis the child victim, it is the powerful that is protected by the group rather than the weak. When the perpetrator is a powerful member of the community, there are major challenges for effective prevention, reporting, care and management. The rights of children are often sacrificed to protect the honour of the group (family, clan, community, religious group, school, etc) and the character of the abuser. Where the child victim asks

⁶ Each of the FSM states of Chuuk, Kosrae, Pohnpei and Yap have their own Constitutions.

⁷ . http://www.unicef.org/infobycountry/micronesia_statistics.html

us to share the burden of pain and to take action on his or her behalf, the perpetrator appeals to the universal desire to see, hear and speak no evil. The perpetrator wins and we all take a 'neutral stand'. There are no specific laws against rape, domestic violence or child and women sexual abuse, and there is an absence of foster homes or separate homes for abused children and an absence of shelters for women.

F. Sexual and reproductive health and rights

17. Traditional beliefs and practices, social taboos and pressures, inadequate health care facilities and clinic infrastructure as well as the judgmental attitudes of service providers are factors which inhibit young people from seeking reproductive and sexual health services and put them at risk of unwanted pregnancies, unsafe abortions and STI/HIV infections. In addition, existing services are adult-oriented and do not offer young people the opportunity to discuss their sexual and reproductive health needs and concerns freely.

18. Although Micronesia has integrated reproductive health services into the primary health care system, women and adolescents still lack access to sexual and reproductive facilities and information. Contraceptive and family planning information are not spread enough to allow women to choose and to avoid unwanted pregnancies. Further, reproductive health services are characterized by not adequate trained personnel, low staff capacity and insufficient resources to strengthen the services' quality.

G. Recommendations:

Micronesia government should:

19. Implement programmes to increase young people's and parents' knowledge on sexual and reproductive health, and to change the attitudes of policymakers, service providers and religious leaders

20. Increase training and develop infrastructure to make sexual and reproductive health services youth friendly and available for all women.

21. Design and develop national programs to encourage young women's schooling, since education holds promise for decreasing early marriage and delays in marriage will go a long way toward reducing adolescent childbearing.

22. Pay serious attention to marriage rules and in this regard, should design and implement rules and regulations for marriage registration. Those who force their daughters to marry in their childhood and those who marry underage girls should be legally prosecuted.

23. Implement public awareness-raising campaigns on early and forced marriage throughout the country, in particular in the rural areas, and increase the general awareness level on the detriments and the harms of child marriage. Awareness programmes should clearly explain the stance of the government and law in this regard, and people should be informed that the government will prosecute violators of marriage laws. Sensitization campaigns on early and forced marriage should prevent girls and parents that they are not allowed to marry their daughters before the age of 15.

24. Include women's rights in the educational curricula of schools starting in primary school.

25. Ensure widest and earliest possible access by girls and women to secondary and higher levels of education, vocational education and technical training.
Provide economic help to encourage parents to keep girls in school, which will also reduce child labour and early marriage; in the same way, create scholarship programmes to help poor families to keep their children in school
26. Implement regular and effective programs to raise men's awareness of women's rights and violence against women and take necessary legal actions against the committers of violence.
27. Establish accessible mechanisms for girls to make confidential complaints regarding sexual harassment or violence by other students, teachers, staff or principals and to ensure the prompt and effective investigation of such complaints, and prompt and appropriate disciplinary action against perpetrators, including counseling, suspension, termination and prosecution; bringing criminal charges where necessary.
28. Establish mechanisms for women's equal participation and representation at all levels in public life, eliminate all practices that discriminate against women and promote women's economic security.
29. Take all legal and other necessary measures to provide adequate protection for women against gender based violence. New legislation and policies should include preventive actions (e.g. public information and education programmes to change attitudes concerning the roles and status of women and men), complaint procedures, protective measures and facilities (shelters, counseling and support services), compensatory provisions, and penal sanctions to perpetrators.
30. Improve the status of girls, through special education and public information efforts to promote equal treatment of girls and boys with respect to nutrition, health care, education and social, economic and civil rights, including equitable heritable rights.
31. Promote laws that ensured women enter into marriages with free and full consent and to take action against infanticide, prenatal sex selection, forced prostitution and child pornography.
32. Promote equal participation of men and women in family and household responsibilities and sexual reproductive health, throughout legislation and fostering an enabling environment.
33. Take full measures to eliminate all forms of exploitation, abuse, harassment and sexual violence against women, adolescents and children and to identify and condemn the systematic practice of rape and other forms of inhuman and degrading treatment of women, and take steps to assure that full assistance is provided to the victims for their physical and mental rehabilitation.