



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Eighty-third session

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Agenda item 4

### Consideration of reports of States parties

## Replies of the Federated States of Micronesia to the list of issues in relation to its second periodic report\*

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\* The present document is being issued without formal editing.

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## **I. Introduction**

1. The Federated States of Micronesia (FSM) presents its Response to its Convention on the Rights of Child (CRC) List of Issues to the UN CRC Committee per the committee's request dated July 12, 2019.
2. FSM however is only responding to selected questions or issues at this time on the basis of the readily available data/information that can be pulled from the state level through the appropriate FSM National Government line departments for this report.

## **II. List of Issues and Responses**

### **Reply to paragraph 1 of the list of issues CRC/C/FSM/Q/2**

3. Family protection bills for Yap and Chuuk are being worked on and at different stages. With Chuuk's bill, relevant state partners along with its NGOs are reviewing and finalizing its bill to submit to Chuuk State Legislature for action. Several workshops have been conducted in 2019 to convene key stakeholders to get all partners on the same page on the importance of the bill. Stakeholders included women groups both from Main Island and outer islands, public safety, church, health services, Micronesian legal services and technical partners such as Secretariat of Pacific Community RRRT (SPC RRRT). Yap is undertaking drafting of the bill with SPC RRRT support. Both states are giving themselves a deadline of 2020 to submit to their respective State Legislatures for action.
4. In terms of the outdated national youth policy, FSM is pleased to announce the completion and endorsement of its new and updated youth policy for the year 2017–2023.
5. Under the mandates of the FSM Division of Social Affairs, it is responsible for the coordination of the implementation of the convention. It takes on the responsibility to raise awareness on the convention at the four FSM States and collects information relevant to the states progress against the provisions of the convention. The division is staffed with a gender development officer along with three other youth program staff that work closely together. The gender development officer is responsible to coordinate any technical assistance requests from the states with technical partners and ensuring that all the initiatives are compiled nationally to provide an overall picture of the nation pertaining to children's promotion and protection of their rights.
6. Currently there is zero operational budget dedicated for child protection under the division. However, support for the implementation of the convention is spread across sectors such as education, health, public safety and so forth that are covered through the compact funding and federal funded programs from the United States. Nonetheless, the notion of the ending of the Compact of Free Association with the United States was a concern before but FSM was recently informed through the visit of US Secretary of State to the FSM that talk of renewal of the compact is now open. Other funding for activities/programs are by outside entities such as UNICEF, SPC, UNFPA and etc.

### **Reply to paragraph 2 of the list of issues**

7. The scoping mission on National Human Rights Institutions that was supported by Asia – Pacific and SPC RRRT is undergoing endorsement with the FSM Government. It has good recommendations relevant to the needs and comments collected by the states. Establishment of the NHRI for the FSM will take up the role of supporting the national and state governments' obligation of protecting and promoting the rights of its citizens and residents including children. Through the consultations with the FSM States, it is clear that there is a need and appetite to establish NHRI and that the composition of the NHRI would take into account the states' engagement through a rep from each state who would also be positioned at the state level to be doing work on the ground.

### **Reply to paragraph 3 of the list of issues**

8. The CRC Convention defines a child to be below 18 years of age. The FSM Federal laws and the State laws define child similarly, although in some provisions reference is made to ‘minor’ or ‘juvenile’. The FSM Code provides that a minor is a person under the age of 18 years, and upon attaining the age of 18, such person is of legal age and his/her period of minority has ceased (6 F.S.M.C. 1616). Similarly, all the State Codes, with the exception of the Yap State Code, define a minor/juvenile to the same effect (16 KSC 16.1101; 23 CSC 1005; 52 PC 1-101). Other legislative provisions defining “child” are already listed under paragraphs 48 and 49 of the initial report.

9. Pohnpei State has increased the minimum age of marriage to 18 years for both boys and girls (S.L. No. 9L-105-19). Chuuk passed their age of consent law in 2018. Chuuk State Law 12-14-18. There has been a lot of community awareness on these laws in the schools and communities in Chuuk and Pohnpei.

### **Reply to paragraph 4 of the list of issues**

10. The discrepancy of the birth registration rate of 70% when 90% of births occur in a health facility is due to the current process to issue birth registration or certificates. While births are recorded at the health facilities, the information may not be complete and therefore will not be forwarded to the state courts for registration. The registration system sits at the state courts as the official entity of the FSM state governments to issue birth certificates.

### **Reply to paragraph 5 of the list of issues**

11. For school aged children, completion of their age appropriate immunization is required before school entry. This has proved to be effective in ensuring that children access health in the most critical years of their lives to be protected against communicable diseases. As for children’s access to education, the FSM state laws requires children to be in school when reach six (6) years old.

12. Children’s access to information, communication and technology is an area that is relatively new to FSM. However, there is a project that is being appraised by World Bank called Digital FSM. The first phase of the project entails the layout of the fibre optic cable on the seabed to connect the FSM States. The second phase is to bring the broadband connection to the homes. Part of the second phase of the project includes environment and safeguard measures whereby appropriate laws for child online safety and cybersecurity are implemented to protect the most vulnerable populations including children.

13. Additionally, there is some discussion on getting technical assistance to assist the country in establishing a child protection system. The Department of Health & Social Affairs being responsible for the social development programs and services is looking at ways in which to support families living in poverty or female headed households including the provision of financial support. However, FSM is also exploring through the Social Affairs office ways in which to utilize and strengthen cultural family network for child protection.

### **Reply to paragraph 6 of the list of issues**

14. Answering the first part of this question would be repetitive as the ‘best interests of the child’ being of primary consideration in all laws and decision making is clearly explained in paragraphs 53–57 of the initial report, with reference to all relevant statutes and case laws.

15. Pohnpei State law recently passed marriage age to 18 years. This law prevents family decisions from being made regarding marriage of children under 18 years as such marriage will be invalid. This more or less controls decision-making within the family by ensuring that family decisions are in the best interests of the child.

**Reply to paragraph 7 of the list of issues**

16. The FSM Constitution, article IV, section 8, prohibits the infliction of cruel and unusual punishment. Pohnpei and Kosrae has also passed their family protection laws. The government including the civil society groups are doing a lot of awareness around these laws. Pohnpei and Chuuk has also increased their age of consent laws to 18.

17. Public safety has a toll-free line available to the Public to report any criminal cases including abuse. The Human Trafficking task force has also set up a 24-hour toll free helpline to assist public including children.

**Reply to paragraph 8 of the list of issues**

18. Parental liability for the acts of their children under 18 years of age is clearly explained in paragraph 92 of the report. Pursuant to Title 12, Chapter 10 of the FSM Code, a parent or guardian may be liable to enter into a recognizance with sufficient surety of not more than \$100 if a child under the control and authority of that parent or guardian is found to be delinquent and put on probation. This recognizance is conditioned upon the child's faithful discharge of the conditions of probation. The child's failure to fulfil conditions of probation, or a subsequent delinquency, will result in forfeiture of the recognizance. However, before a parent can be held liable for the acts of their delinquent child, there has to be a finding by the Court that such delinquency is the result of the parent's failure or neglect to subject the child to reasonable parental control and authority. In some communities such as Kitti and Kolonia, they have curfew laws that ban children under 19 to be in public places after 9:30 pm. These ordinances were adopted to safeguard health/lives of teenagers at several fronts.

**Reply to paragraph 9 of the list of issues**

19. The FSM Disability Policy is currently under review. However, it should be noted that all states except Chuuk have passed a Disability Act. This essentially provides for people accessing health and disability services and must be informed of their rights, be treated with respect and receive services in a manner that has regard for their dignity, privacy and independence. Some specific measures to facilitate a person's with disabilities including children with disabilities include the provision of access ramps, designated parking areas, and wider sidewalks.

20. In terms of their access to education, FSM laws under Title 40 guarantee the states' obligation to provide education to children. This includes the Compulsory Education Act, Special Education Comprehensive Law, Accessibility Law, and Discrimination Law.

21. Per Pohnpei Constitution Article 7 (Health & Education), Section 3 states that the Government shall provide for public education and schools. Public elementary schools shall be free. Traditions and customs of the people of this State shall be taught in public schools as provided by law.

**Reply to paragraph 10 (a) of the list of issues**

22. The following are the prevention initiatives of the State to bring down the high rates of child and maternal mortality:

- Increase Immunization by making vaccines available
- Antibiotics
- Micronutrient supplementation
- Improved family care and breastfeeding practices
- Empowering women
- Removing financial and social barriers to accessing basic services,

- Developing innovations that make the supply of critical services more available to the poor/disadvantaged.

### **Reply to paragraph 10 (b) of the list of issues**

23. The following are the prevention initiatives of the State to improve access to prenatal, maternal and child health care:

- Providing safe services for pregnant women within family planning facilities is applicable to all states. Promoting effective contraceptive use and information distributed to a wider population, with access to high-quality care, can significantly make strides towards reducing the number of unsafe abortions. Reproductive education and health for women should also be incorporated in schools. For nations that allow contraceptives, programs should be instituted to allow the easier accessibility of these medications. However, this alone will not eliminate the demand for safe services.
- Use of the Kotelchuck data results in a large percentage of prenatal care being labelled inadequate, solely because it starts after the fourth month.
- Some FSM states reported up to 10% of deliveries received no prenatal care at all.
- The process of prenatal care at the clinic may be a deterrent to some women. Prenatal care is only offered on certain clinic days and not by appointment. This means there is limited availability of services that women may have difficulty fitting into their schedules.
- It also means long wait times in crowded waiting rooms.
- Besides wait time, the process of being seen is still long as there are many steps to the visit. In some locations, the woman must check in at one location, see the provider at another, then go to a third location for lab draws and a fourth location for the dental check.
- Streamlining the process may increase prenatal care attendance.
- Long wait time and transportation were the two main reasons women did not access prenatal care.
- Even amongst those seeking prenatal care, that care is not always adequate. Some clinic locations lack dopplers and ultrasounds, others lack basic supplies such as feta scopes, prenatal vitamins, glucometers and urine dipsticks thereby limiting the diagnostic capabilities of the prenatal care.
- There is limited pregnancy expectation education, so the community is unaware of what to anticipate during pregnancy and prenatal care.
- During prenatal care not all FSM States currently screen for Gestational Diabetes. Pohnpei does no screening at all, although the lab possesses the capabilities. Kosrae and Chuuk do screening based on risk assessment of known history of diabetes or gestational diabetes. Only Yap does routine glucose tolerance testing to screen for gestational diabetes.
- In speaking with paediatric providers in the FSM, all report treating many infants with difficulty controlling their blood sugar within the first 48 hours after birth, a tell-tale sign of missed or poorly control gestational diabetes. As a measure to improve the adequacy of prenatal care and improve fetal outcomes, the FSM MCH Program intends to implement a routine glucose tolerance testing.

### **Reply to paragraph 10 (c) of the list of issues**

24. FSM acknowledges the issue of disparities in vaccination coverage among its states and the decrease in vaccination rates. This is largely due to the challenge of accessing the outer islands (OI) in Yap, Pohnpei and Chuuk. Additionally, there is no reliable FSM

government schedule for the ships to service the outer islands therefore Public health teams cannot capture OI children and this eventually pulls down immunization coverage. The FSM Immunization program continues to work with the available resources of the state to provide immunization services to hard to reach areas.

### **Reply to paragraph 10 (d) of the list of issues**

25. The MCH Program is doing nutrition education at the public health during prenatal clinic so pregnant women understand the benefits of nutritious foods for the mother and the unborn child. The MCH Program is also partnering with various NGOs, such as the Island Food Community of Pohnpei, to do nutrition education in the communities as well as doing cooking demonstrations for the communities in general. While mothers are educated on the benefits of nutritious food for the child, they are also being cautioned about breastfeeding supplements which often times aren't nutritious and unsuitable for the young child's digestive system, especially the stomach. Care takers are also trained or received education on child's nutrition and recommended foods for the child.

### **Reply to paragraph 10 (f) of the list of issues**

26. Although in 2014, 62.7% of mothers in FSM report breastfeeding their child at six months of age the adequacy of breastfeeding has not been assessed. This measure does not assess exclusive breastfeeding. The qualitative reports from paediatric providers are that although women are still offering breastfeeding at six months, most are supplementing. Unfortunately, the supplements are not a healthy alternative but often coconut milk. Education needs to be provided to mothers on breastfeeding and infant nutrition. Currently childcare education is lacking in the FSM. New mothers rely on families to inform them about child care and rearing and this is not always the healthiest or safest information.

### **Reply to paragraph 10 (g) of the list of issues**

27. The FSM teen birth rate for 2014 was 43.6 births per 1,000 females, which is greater than the national average of 14.1 in 2012. In a study of maternal, pregnancy, and birth characteristics of Asians and Native Hawaiians/Pacific Islanders, Native Hawaiians/Pacific Islanders were significantly more (four times as) likely to be adolescents aged 15–17 years. This can be seen in the FSM 15–17-year-old birth rate. This rate is an important age distinction due to the cultural norm to bear children at a young age. In Pohnpei, there is no marriage age law. In Yap, the legal age of consent is 13 years old. This past year, Chuuk increased the legal age of consent from 13 to 18 years old. This population has not followed the US trend towards delaying childbearing.

28. Teen births increase health risks to both mother and child including low birth weight, preterm birth, and death in infancy. In addition to health risks teen births set up a cycle of disadvantages. Teen mothers are less likely to finish high school and their children are more likely to have low school achievement, drop out of high school, and give birth themselves as teens. For these reasons FSM MCH Program works closely with the FSM Department of Education to prevent teen pregnancy. Clinic locations are at High Schools and the college. Condoms are available at many community locations.

29. Ethnic variations exist in the adolescent high-risk sexual behaviour of Pacific Islanders. "High-risk sexual behaviours among adolescents are a significant public health concern in the United States. These behaviours account for increasing rates of premature morbidity and mortality by contributing to risk of unintended teen pregnancy, HIV/AIDS, and other sexually transmitted diseases. Complications associated with adolescents' sexual risk behaviours may take years to manifest and may seriously compromise adolescents' health and quality of life in adulthood. [...] Ethnically specific cultural and socioeconomic factors may influence high-risk sexual behaviours, which may, in turn, differentially increase risk for HIV/AIDS, other STDs, and unintended pregnancy among Asian and Pacific Islander adolescents."

30. The rate of sexually transmitted diseases (STDs) in the FSM is improving. However, with limited testing due to financial and laboratory constraints, the rates of Chlamydia may be under reported.

31. The MCH goal is to encourage positive health behaviour activity in adolescents, through comprehensive interventions at age-appropriate levels in a culturally-sensitive manner that will impact the frightening possibilities of adolescent risk behaviour activity, including, but not limited to:

- Unplanned pregnancy and teen birth;
- Sexually transmitted diseases in the adolescent and young adult population;
- Alcohol use; and
- Drug use.

32. The MCH Program currently works and will continue to work with youth groups in each State to reach the adolescent population. Such groups are Youth for Change, Chuuk Youth Council, and the Public Health PREP-Personal Responsibility Educational Program.

33. Risky adolescent behaviour such as drug and alcohol use lead to injury such as motor vehicle crashes. Although not much data exists on current drug and alcohol use, it is believed throughout the community that the use does exist and influences poor outcomes. There is lack of law enforcement surrounding alcohol sales and many businesses in the FSM sell alcohol cheap and to youth. Additionally, in the FSM there is a cultural norm to drink sakau, a sedative agent derived from the roots of a shrub, pounded and mixed with water. This is done both ceremoniously in traditional customs and socially. There is no age limit on drinking sakau and is drunk increasingly by the youth.

### **Reply to paragraph 12 (a) of the list of issues**

34. The FSM Code provides that all persons are capable of committing crimes, except children under the age of 14, unless there is clear proof that at the time of engaging in the wrongful conduct, they knew it was wrong (11 F.S.M.C. 301A). The State Codes, however, have provisions, which provide for the age of criminal responsibility slightly differently.

35. In the State Codes, children under the age of 10 are conclusively presumed to be incapable of committing any crime. Children who are between the age of 10 and 14 are presumed to be incapable of committing crimes, but this presumption can be rebutted. Further, the provisions regarding criminal responsibility of children do not in any way prevent proceedings against children under the age of 18 as a delinquent child (11 Y.S.C. 110; 13 K.S.C. 13.104(4); 12 C.S.C. 2007; 61 PC 1-107).

### **Reply to paragraph 12 (b) of the list of issues**

36. The FSM Code and State Codes all have provisions relating to juvenile proceedings, the purpose of which is ensure protection of children, even those who have committed illegal acts (12 F.S.M.C. 1101–1107; 11 Y.S.C. 1201–1210; 6 K.S.C. 6.4801–6.4808; 23 C.S.C. 1801–1806; 6 PC 6-101–6-107). Moreover, the Pohnpei Code as a separate Title devoted entirely to “Minors” to ensure full protection of children under the age of 18 years.

37. The provisions in all the Codes mandate that flexible procedures shall be adopted by the Courts in the adjudication of children under the age of 18. These provisions also prevent an adjudication of a child as delinquent to be regarded as a criminal conviction. In the event that a Court finds that confinement of a delinquent child is necessary, the best interests of the child will be the only factor for determining the duration and conditions of such confinement.

### Reply to paragraph 16 of the list of issues

	2016	2017	2018
Infant mortality rate per 1,000 livebirths	14	17	17
Teenage pregnancy	43%	41%	41%
Youth tobacco smoking	25%	23%	26%
Alcohol use	41.6%	31%	24.13%

### Sexually transmitted infections including HIV/AIDS

	<i>Gonorrhoea</i>		<i>Chlamydia</i>		<i>Syphilis</i>		<i>Hepatitis B</i>		<i>HIV</i>	
	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
2016	49	17	36	107	38	68	70	82	2	0
2017	58	35	60	126	39	34	27	45	1	0
2018	85	82	106	340	29	33	37	45	0	1