



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the second periodic report of Palau

Addendum

Replies of Palau to the list of issues*

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* The present document is being issued without formal editing.

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Part I

1. (a) **Inform the Committee whether the State party has taken any measures to carry out a comprehensive review of its laws and policies in order to ensure their compliance with provisions of the Convention.**

1. (a-i) **In the Executive Summary of Palau's second report of the Implementation of the CRC, reference was made to the Palau Child Protection Baseline Research Project which was completed in 2011.**

1. The project, under the auspices of UNICEF Pacific, was headed by the Ministry of Health's Health Policy, Research and Development Office in collaboration with the Ministry of Community and Cultural Affairs, Ministry of Education and Ministry of Justice. Assistance from UNICEF was invaluable in providing the framework for the comprehensive review to see if, in Palau, the Child Welfare and Protection Laws and policies were aligned with the CRC/Optional Protocols and provide authority to mandated agencies to enforce and apply them. Under this framework, articles of the CRC were grouped into 13 categories of child protection and fleshed out to their full ramifications. Indicators were developed to gauge compliance of existing domestic laws and policies to the Articles of the CRC within the 13 categories. The 13 categories and their associated CRC articles as well as the indicators developed for each of the 13 categories of child protection are given below and form the basis of our response to question 1(a).

(1) *Child welfare/child protection (CRC Articles: 1,2,3,4,5,6,12, 18, 19 and 20).*

2. Of the 26 indicators developed for this category, 2 were in compliance; 6 were partially complied with and 18 were not in compliance. The three main recommendations made to facilitate fuller compliance in this area were: (a) Strengthening of the legal framework — passage of CRC implementing law; and review of the Juvenile Act; (b) Creation of a national child protection coordinating body and (c) Strengthening of interagency collaboration and cooperation through development of Memorandums of Understanding, Protocols and Standard Operational Procedures. A bill to implement the CRC had been introduced but has not passed. A National Committee on Human Rights with an associate working group has been created to address issues of human rights, including those relating specifically to children under the CRC and its protocols. Additionally, the Ministry of Community and Cultural Affairs (MCCA) has reviewed the Family Protection Act and is currently in the process of developing an associated implementation plan. The Family Protection Act address gender-based violence and includes violence against children.

(2) *Family Separation and Alternative Care (CRC Articles: 1, 2, 3, 4, 5, 6, 9, 12, 20, 21 and 25).*

3. Of the 38 indicators for this category, 3 were in compliance, 10 partially compliant and 25 were found non-compliant). A major recommendation from this category was to amend the Palauan constitution so as to bring the adoption laws in Palau into conformity with international law by granting Palau citizenship to children of non-Palauan descent adopted by Palauan families. This issue will be responded to under question number 8, Part I.

(3) *Violence [maltreatment] against Children (CRC Articles: 1, 2, 3, 4, 6, 12 and 19).*

4. Of the 16 indicators, 3 were in compliance, 9 partially compliant and 4 non-compliant. The important issues identified in the recommendations made for this category were those of corporal punishment and child rearing practices which we shall address in your question number 6, Part I.

- (4) *Sexual abuse and sexual exploitation of children (CRC Articles: 1, 2, 3, 4, 6, 12, 19 and 34).*
5. The issue of sexual abuse and sexual exploitation is important to Palau and was also investigated in the Child Protection Baseline Research. Our findings and recommendations will address question number 7. Under this topic, Palau was found to be compliant fully in 4 of the 16 indicators, partially compliant in 3 and non-compliant in 9 indicators.
- (5) *Abduction, sale and trafficking (CRC Articles: 1, 2, 3, 4, 6, 11, 12, 34, 35 and 36).*
6. Of the 19 indicators, Palau was compliant in the following 3 indicators (i) the criminal law includes a specific crime related to sale of children, defined broadly in accordance with the Optional Protocol, and sanctioned in a manner that reflects the gravity of the crime, (ii) the criminal law includes a specific crime of trafficking in humans (RPPL 7-5; Chapter 21 of updated Title 17 of PNC) defined broadly in accordance with the Trafficking Protocol, and sanctioned in a manner that reflects the gravity of the crime, (iii) The laws relating to human trafficking provide additional penalties where trafficking involves children. Palau is partially compliant in 4 and non-compliant in 12 of the remaining of the 19 indicators for this section. The review found that there were limited provisions for cooperation between relevant agencies such as the Police, Ministry of Community and Cultural Affairs and Ministry of Justice (Division of Immigration).
- (6) *Child labor and Children in street situations (CRC Articles: 1, 2, 3, 4, 6, 12, 32, 33).*
7. Labor laws make 3 specific references to children: (i) a person under 16 years of age cannot work on foreign trading vessel, except if operated by a single family. (7PNC 505), (ii) a person under 21 years of age cannot work in premises used for serving/consuming alcohol (11 PNC 1064); (iii) services performed by a child for parent(s) or guardian(s) are exempted from the prohibition of ‘...requiring that labor or services be performed to retire, repay or service real or purported debt...’ (Sec. 2001, Chapt. 20 of updated Title 17 PNC). This is an update since the review, as it is specific in the updated Title 17 PNC and changes the results of the review as indicated below. Child labor is not considered a major issue in Palau. Nonetheless, under the review Palau was in compliance in only 2 (now 3); while partially compliant in 7 and non-compliant in 8, (now 7) of the 17 indicators developed for this section. It should be noted that some of the indicators are those which are currently so traditionally inconceivable in Palau, i.e., ‘the law prohibits the use of children for the purpose of begging’ and we hope that the day will never come when such provision becomes necessary to protect the children of Palau.
- (7) *Child-friendly investigative and court procedures (CRC Articles 1, 2, 3, 4, 6, 12, 39)*
8. Of the 25 indicators for this question, it was found that the laws were compliant in 4, partially compliant in 13 and non-compliant in 8. A main finding was that there were limited legislative provisions for child-friendly investigative processes and court procedures for child victims/survivors or for young offenders. A bill (the Juvenile Diversion and Expungement Act) has been introduced in the Senate which will improve the situation largely. A major provision in the Senate Bill is the creation of a Juvenile Conference Committee which serves as a “friend of the court in making a special study and investigation of each delinquent child referred to it by the court, to determine what factor brought about the illegal action complained of, and shall devise ways and means of setting up a diversion program to aid the child’s rehabilitation and deter future unlawful behavior”.
- (8) *Rehabilitation (CRC Articles: 1, 2, 3, 4, 6, 12, 39)*
9. Full compliance: 3; Partial compliance: 5 and non-compliance: 6 of the 14 total indicators. The issue of rehabilitation and successful reintegration into the society is important to Palau and, as has been mentioned under question number 7, two specific processes, the development of the Plan of Implementation of the Family Protection Act and the pending bill for Juvenile Diversion program are underway which will, together address the matter.

(9) *Children in conflict with the law (CRC Articles: 1, 2, 3, 4, 6, 12, 37 and 40)*

10. This is an important matter as indicated by the large number (78) of indicators developed for it. Its importance to Palau is also indicated by the large number of provisions already in place which are in full compliance (47) with the indicators. There were 19 partial and 12 non-compliance, respectively. Since the review, a separate facility for detention of minors has been established. The remaining 11 remain essential to improving addressing the needs of children in conflict with the law. In particular, as outshoot of this report, a recommendation is made to take actions on three of the remaining 11, as soon as is practicable. These are (i) All justice sector officials, including police, prosecutors, judges, lawyers and prison officials, are required to received training and sensitization on children in contact with the law as par of their induction training (at police academy, Palau bar admission, judicial training programs, etc..) as well as on an in-service basis; (ii) Children released from detention are provided with support for their reintegration into the community. An authority has been designated for child reintegration and program are in place to assist children who are released from detention. This could be one of the activities mandated to the Juvenile Conference Committee, mentioned above; (iii) Law/policy requires the recording and reporting of systematic disaggregated data by all institutions dealing with child offenders.

(10) *Refugees, unaccompanied children and migrant children (CRC Articles: 1, 2, 3, 4, 6, 12, 22)*

11. The review found Palau to be non-compliant in all 12 indicators developed for this category. There are no legal provisions addressing the protection and wellbeing of child refugees or asylum seekers. This is partly reflective of the fact that this is not yet considered to be an issue of practical significance in Palau. The request to receive refugees from Afghanistan was respectfully declined by the Government as it was then (and still is) a relatively new government with urgent development issues of priority so that it has not had time to set up proper mechanism for accommodating refugees. In two other incidents, some refugees had been accommodated for some time in Palau. In one instance, refugees from Myanmar were accommodated by the church and in the other case, Uyghur detainees from Guantanamo were accommodated here. Both groups of people have moved on and currently there are no refugees in Palau. Last year (2016) a family arrived here as tourist through the open-visa system and sought political asylum afterwards. The government requested assistance from Human Rights officials in Australia and through their assistance were able to assist the family to return. Details of these cases are not clear, but it is clear that Palau does not have a mechanism to receive refugees in a manner that will ensure their best interest. In effect, the question of Palauan citizenship based on the constitution makes it difficult for refugees to be able to come, live and call Palau their home. The core of this issue which is to protect and preserve this tiny island on earth for the approximately 20,000 Palauans also makes it hard to see an open refugee policy as it would entail questions about who and how many can/may be admitted, under what circumstances and what their permanent status would be. Finally, to date we have been talking only about political, war or conflict refugees and asylum seekers. However, with the climate change issues still pending and full implementation of the Paris Agreement and the 2030 Agenda still in initial stages, the possibility of ‘climate refugees’ cannot be set aside. And since it is the Small Islands Developing States (SIDS) who are most vulnerable, 3 of the 4 most at risk being in the Pacific and in the Micronesia regions (Marshall Islands, Kiribati and Tuvalu), Palau may have to seriously reconsider its current stance, in light of the possible ‘climate refugees’ from amongst us in the Pacific.

(11) *Children involved in armed conflict (CRC Articles: 1,2,3,4,6 and 38)*

12. The review found Palau non-compliant in all 3 indicators. Palau is not involved, as a nation, in armed conflict and has no armed forces. Were Palau’s security to be threatened, defense is the responsibility of the United States of America, under the terms for the Compact of Free Association — the basis of the relationship of the two nations. Citizens of Palau are eligible to serve in the US Armed Forces, as volunteers and many Palauans have and are currently serving in the US Armed Forces. The minimum requirements for enlistment are age of 18 years and high school graduation.

(12) Information access (CRC Articles: 1,2,3,4,6,12, 17 and 29)

13. Palau is in full compliance with 1, (no discriminatory provisions in access to information), partial compliance with 1 (requirement that pubertal change and sex education be included in school curricula) and non-compliance with the other 2 (existence of censorship board or equivalent with jurisdiction over all media; requirement that legal rights and human rights be included in school curricula). Censorship exists, but the provisions do not specifically address the needs of children and are scattered throughout various pieces of legislation. Legal rights and human rights are broadly stated in the Constitution. Article 4.4 grants to every person the 'right to be secure in his person, house, papers and effects against entry, search and seizure.' Privacy is further protected by requirements for adherence to due process of law in the Constitution and under the law (PNC Titles 4 and 17). There is no clear education policy on pubertal change education or legal rights/human rights education. The law is silent on internet regulation.

(13) Birth registration (CRC Article: 1, 2, 3,4,6,7 and 12)

14. The review found Palau in compliance with both indicators: (1) The law makes birth registration compulsory and free for all and (2) No discriminatory provisions in birth registration laws.

1. (a-ii) While the review outlined above was comprehensive, there were other articles of the CRC which were not covered under the 13 categories.

These were, however, reported in our first report of implementation under different categories. We shall now review those articles not covered under the 13 categories in the Child Protection Baseline Research of 2011. These are discussed under 5 categories.

(1) Basic Human Rights (Article 8: The child has a right to a name, a nationality and family ties).

15. The law covers the right to a name under birth registration; the constitution makes reference to the right to belong to a clan and family. The issue of nationality has been discussed under question number 8, Part I.

(2) Survival Rights (Articles 24: Child has a right to the highest standard of health.)

16. While right to health is enshrined in the Constitution, the rights of a child to highest standard of health is specifically mentioned in RPPL 8-3, although this only refers to early childhood, ages 0-7); (Article 26: Child has a right to benefit from Social Security including social insurance). The law provides for the child to be a beneficiary in Social Security but there is no specific provision regarding social insurance. However, Palauan custom affords the child great protection through the traditional safety net. (Article 27: Child has right to standard of living adequate for his physical, mental, spiritual, moral and social development). The law has no specific provision for this article.

(3) Development Rights (Articles 9: The child has a right to live with his or her parents unless this is deemed to be incompatible with the child's best interest.)

17. PNC 21.6 and PNC 34.61 allocate responsibility for care and control of the child to his parent or to other person(s) having custody of the child. (Article 10: The child has a right to be reunited with parents). There are no provisions specifically addressing the right for reunion. (Articles 28-31: Child has a right to education, leisure, play and culture). While these rights are broadly enshrined in the Constitution, there is no specific provision regarding the right to play or leisure. The law requires a child to be in school from 5-17 years. (Article 23: Right of child with disability to special care, education and training).

(4) Protection Rights (Article 16: protection from interference with privacy; discipline to be consistent with child's rights and dignity).

18. There are no specific provisions for interference with privacy. (Article 30: protection from any form of discrimination of children of minority communities). There are no anti-discrimination specific for children of minority communities. (Article 28: Discipline

in the school to be consistent with child's rights and dignity.) This is discussed under question number 6, Part I.

- (5) *Participation Rights: (Article 13: child has right to obtain information and express his view).*

19. There are no provisions prohibiting a child from expressing himself or herself. In Palauan tradition, however, children are taught a virtue to listen more and talk less with respect to adults and parents. (Article 14: freedom of conscience, thought, religion subject to appropriate parental guidance). The laws are silent on these with regards to children. These are deemed basic responsibilities of parents to provide for the child.

- 1. (b) Please also inform the Committee whether national courts, including the appellate courts, invoke or refer to the rights contained in the Convention. If so, please give us examples.**

20. *PNC Title 1.303* states that common law acceptable in the U.S. can be applied in rules of decision by Palau courts except that “no person shall be criminally prosecuted except under the written law of Palau or recognized local customary law not in conflict with the written laws.” The Attorney General for Palau has stated that ‘given that the Palau National Code makes no reference to the legal authority of International Conventions, the CRC may not be directly invoked before the courts unless the relevant article(s) of the CRC have first been enacted into the Palau Code by act of the Olbiil Era Kelulau (Palau National Congress). Legislation needs to be enacted to provide comprehensive protection of children by implementing the CRC. However, with respect to articles of the CRC that are not enacted into the national code, the CRC can be used to provide interpretive guidance. Given the above, a custody case requiring decision based on “the best interest of the child’ may be cited:

21. In *Tkel v. Leirvik*, (2007), Appellant Darlene Jane Tkel was appealing the judgment of the Trial Division which recognized the custody judgments of Norwegian courts that awarded custody of two of her children to their fathers, Appellees Alf Bjorge Leirvik and Erik Arild Warland. In 1990, Warland and Tkel met in the United States when they were both students. They have two children together: Lindsay was born on February 18, 1992, and Andre was born on May 17, 1994. Warland and Tkel were married in Norway in 1992, but the marriage ended in divorce in 1999. Shortly thereafter, Tkel started a relationship with Plaintiff Alf Bjorge Leirvik. They have one child, Marlene, who was born on June 15, 2003. In 2004, Warland and Leirvik sought custody of their children by filing actions in the Jæren District Court in Norway. At the time, all of the parties resided in Norway. On March 18, 2005, Judge Drangsholt issued a Judgment and Interim Decision finding that Leirvik should have permanent custody of Marlene but that the girl would continue to live with Tkel until the appellate process had been concluded.

22. On May 12, 2005, Judge Solvik made a similar custody finding with respect to Lindsay and Andre, except that Warland would have “interim” custody during the appeal process. Tkel appealed both decisions but left Norway and traveled to Palau with Andre and Marlene on June 12, 2005, before either appeal was heard. In connection with the custody dispute over Lindsay and Andre, the Norwegian Court of Appeals twice attempted to contact Tkel to interview Andre. The appellate court ultimately concluded that Tkel would not make Andre available and, after considering the evidence available to it, affirmed the District Court’s custody determinations in October 2005. Tkel appeared through counsel and made a statement over the phone during the appellate hearing regarding custody of Marlene.

23. The Court of Appeals found that the evidence presented during the appeal, including Tkel’s telephone statement, gave no grounds for deviating from the District Court’s determination that Leirvik should have permanent custody of Marlene. Tkel brought Andre and Marlene to live with her in Peleliu (Palau). In January 2006, Warland and Leirvik filed suit in the Trial Division to secure the return of their respective children. On November 14, 2006, the Trial Division recognized the judgments of the Norwegian courts and entered a custody order for Warland and Leirvik pursuant to the Norwegian court orders. On November 17, 2006, the Trial Division ordered that custody of the children be transferred

to their respective fathers. Tkel sought a stay of execution pending this appeal that was denied by this Court on December 1, 2006. Tkel surrendered Andre and Marlene to their respective fathers on December 1, 2006, who took the children with them back to Norway. Tkel now appeals, claiming the Trial Division incorrectly applied the law when deciding to recognize the judgments of the Norwegian courts.

24. Palau has not enacted a law to address the recognition and enforcement of foreign judgments. Under 1 PNC § 303, the authority for the recognition and enforcement of foreign judgments is the Restatement (Third) of Foreign Relations Law of the United States §§ 481, 482, and 485 and the Restatement (Second) of Conflict of Laws §§ 79, 98 and 117. Taken together, the two Restatements stand for the proposition that valid judgments from foreign jurisdictions should generally be recognized and enforced as long as due process was afforded in the foreign jurisdiction. *See* Foreign Relations Law §§ 481, 482(1)(a) and Conflicts of Law § 98. The Trial Division found that Tkel was afforded a full and fair opportunity to litigate her claims for custody before the Norwegian courts and that the Norwegian system as a whole and as applied in these particular cases adequately protected Tkel's due process rights.

25. Tkel now claims that the Trial Division overlooked applicable Palauan law that should take priority over the Restatements. She cites to the International Convention on the Rights of the Child ("ICRC") adopted by the General Assembly of the United Nations in 1989. In 1995, the President of the Republic of Palau approved the ICRC in Executive Order No. 142 and the Fourth Olbiil Era Kelulau ratified the Convention. *See* House Joint Resolution No. 4-81-11. Specifically, she argues that the Trial Division should have applied ICRC Article 3(1): "In all actions concerning children . . . undertaken by . . . courts of law . . . the best interests of the child shall be a primary consideration." The Appellees argue that the ICRC is not self-executing and should not apply in this case. Ratified treaties have the same force and effect as the laws of the Republic. Just as a constitutional provision, the presumption is that treaty provisions are self-executing except in situations:

26. While Article 3(1) is general, that does not mean this Court cannot determine its scope or nature from the language. "The first guideline quoted above recognizes that constitutional language is often imprecise, and makes clear that such imprecision is *not* a basis for finding that a provision is not self-executing, so long as courts can give meaning to it in the way courts usually do." *Eberdong v. Borja*, 10 ROP 227, 229 (Tr. Div. 2003). Article 3(1) is clear that the best interests of the child should be a primary consideration of a court. While Article 3(1) does not detail what are the best interests of children, more specifics are not necessary because the best interests of children are unique as the children themselves 158 and should be determined on a case by case basis. A court can give meaning to the language of Article 3(1) and it does not fall into the first exception to the presumption of self-execution.

27. Tkel claims that the Trial Division overlooked the ICRC and did not take into consideration the best interests of the children in making its decision. As the Appellees point out, the ICRC was presented by them to the Trial Division not Tkel. While the Trial Division did not mention the ICRC, it considered the interests of the children a "great concern to a court" and found the children's interests to have been properly litigated and considered by the Norwegian courts:

28. With respect to Tkel's argument that this court should make an independent determination regarding the best interests of the children, the governing law suggests that the court may, but need not, address this issue. There is no doubt that a child's interest should be of great concern to a court involved in a child custody dispute, but, having found that the Norwegian courts afforded Tkel a full and fair trial on exactly that issue, the Court is persuaded that concerns regarding judicial comity, deterrence of child-snatching, and the avoidance of protracted custody litigation and inconsistent judgments require the recognition and enforcement of the Norwegian judgments without additional proceedings on the merits.

29. Trial Division Opinion at 8. Tkel's argument is premised on the idea that the ICRC required the Trial Division to make a *de novo* assessment of the children's best interests. However, ICRC Article 3(1) does not mandate that a court make its own determination of

the best interests of the child, nor does it, when appropriate, prevent a court from recognizing and enforcing foreign judgments that address such issues. To hold otherwise, especially in a case where the children were brought to Palau in violation of court orders, would be to turn back the clock.

30. Prior to the mid-1970s, American courts often refused to recognize foreign judgments in child custody cases in favor of a *de novo* determination of the best interests of the child. *See* Foreign Relations Law § 485 n.1. Unfortunately, this procedure often encouraged parents against whom a custody decree was rendered to take the child to another state or country in the hopes of obtaining a more favorable judgment in the second jurisdiction. The recent trend is towards a more deferential policy favoring enforcement of foreign child custody determinations in order to prevent child-snatching and prolonged litigation. *See* Foreign Relations Law § 485 cmt. a and Conflicts of Law § 79 cmt. b.] 159 and undermine ICRC's equally important mandate that countries should take measures to combat the illicit transfer of children abroad. ICRC Article 11 § 1.

31. The Hague Convention on the Civil Aspects of International Child Abduction provides for the recognition of foreign child custody decrees. *See* Articles 3, 14, and 17. Palau is not a signatory to the Convention, but many countries are a signatory to both the Hague Convention and the ICRC. It is inappropriate to read into the ICRC a requirement that would conflict with the Hague Convention.

32. The Trial Division did not err when it deferred to the Norwegian courts' determinations of the best interests of the children. Although the Trial Division did not cite to it, the Trial Division's actions satisfied the requirements of ICRC Article 12, which provides that a child who is capable of forming his own views has the right to express those views. The Trial Division spoke to Andre and specifically recommended that the judges in Norway consider his wishes before entering final judgment.

33. It is clear that while the CRC was not invoked specifically invoked in the *Tkel vs. Leirvik*, it did play a major role in the framing of the decision.

2. (a) Please indicate if the State party is planning to develop and adopt a national strategy or an action plan to implement provisions of the Convention.

34. Several events have taken place that indicates Palau's desire and willingness to implement the provisions of the Convention. Mention was made of the first introduction of enabling legislation to implement the CRC in 2004. In 2009 the Palau National Framework on Early Childhood was enacted. In the findings of the Congress regarding the bill, provision (b) states, "The promotion and implementation of the International Convention on the Rights of the Child will facilitate optimal development of all children." It is clear that Palau Congress is interested in optimal development of all children. It is also clear that it sees implementation of the CRC as a major strategy to achieve this objective. However, to date the efforts have been piece-meal, i.e., the passage of the Early Childhood legislation, enactment of the Family Protection Act and the creation of the Palau Human Rights Committee. In the discussion during the preparation of this report, the Senator member of the working group of the Palau Human Rights Committee has indicated her willingness to re-introduce the bill to implement the CRC in order for Palau to be able to implement all the provisions of the CRC.

2. (b) Please also inform the Committee which State body is responsible for coordination of child rights activities among various agencies and states.

35. While the Ministry of State is Palau's official point of contact regarding all treaties and the Minister of State is the chairperson of the National Committee on Human Rights, responsibility for coordination of child rights activities among the various agencies and states has been delegated to the Ministry of Community and Cultural Affairs.

- 3. (a) In light of the information provided by the State party in paragraphs 1 to 11 of its report concerning allocation of resources, please inform the Committee whether such allocations are accompanied by performance indicators and tracking system at all levels.**

36. Palau currently applies performance based budgeting for all government programs. There are indicators and tracking systems but not at all levels. Program monitoring is done at the agency level.

- 3. (b) Please also provide information on the targeted budget allocations for children in marginalized and vulnerable situations, in particular children with disabilities.**

- 4. (a) Please provide information on the measures taken to implement the Committee's previous recommendation to ensure that non-Palauan children are afforded equal and adequate access to health, education and social services (CRC/C/15/Add.149, para 33).**

37. Non-Palauan children have equal access to all schools in Palau. Under *PNC 22* all children regardless of ethnicity or national identity are required to be in school until the age of 17. All educational services in Palau from pre-school/kindergarten/Palau Head Start Program through Palau Community College levels are available in equal access to all children and youth. Health services are equally available and accessible to all children without discrimination.

- 4.(b) Please also inform the Committee on the measures taken, including legislative measures, to protect children against discrimination on the basis of sexual orientation and gender identity.**

38. The National Committee on Human Rights has taken note of the Alternate Report to the United Nations Committee on the CRC regarding Palau's Protection of the Rights of LGBTI persons prepared by Kaleidoscope Human Rights Foundation (March 2017). It has taken note of the Report's observations and recommendations. It is committed to uphold the human rights of all persons in Palau and will work to achieve this objective of the Committee in the areas of: (1) Public awareness of the issues surrounding the lived experiences of LGBTI persons (2) Legislative and policy frameworks including reforms in legislative agenda; (3) Ensuring the basic rights in the Constitution; (4) Ensuring rights to all services and activities of the community, including health, education and leisure activities.

- 5. Please provide information on the measures taken to implement the Committee's previous recommendation to increase awareness of the participatory rights of children and to encourage respect for the views of the child in the family, communities, schools, and in administrative and judicial processes (CRC/C/15/Add.149, para 37).**

39. Children in Palau are increasingly participating in activities in all areas of life in Palau. Many organizations in Palau are harnessing the innovative ideas, enthusiasm and energy of children and young people. Their views are not only desired, they are sought after, respected and are making direct contribution to policy changes and daily life. Here are a few of the examples:

(a) The Palau Conservation Society harnessed the enthusiasm of children to save hawksbill turtle from extinction. In a national campaign of "Uel a Sechelid" (Turtle is our Friend), the children have turned the public opinion about harvesting turtles irresponsibly and saved the hawksbill turtle from near extinction in the Palau waters. The same approach, raising awareness among children to biodiversity and environmental issues and harnessing their energy to bring out attitude change in the community, has also been utilized to also preserve dugong, the near-extinct sea cow.

(b) The Ebiil Society has educated children and youth about conservation and preservation of food sources — taro patches on land and fishing grounds in the sea. Through their activities, techniques for restoration and preservation of taro patches are being revived and utilized, marine protected areas are designated and managed. The environmental

protection awareness of young people in one state has resulted in a state policy to prohibit the use of plastic flowers on burial sites.

(c) The Ocean Inheritors, is a group of students who are taking on the issue of plastics in the ocean and are working with the community to raise awareness of the damage plastic bags do when they get to the ocean. They are currently working with policy makers to enact legislation to ban the use of plastic bags in shopping centers.

(d) The Ngerbeched Boys, working on the issue of water conservation have worked to identify and restore wells in their community.

40. Other groups have formed to take on specific issues and achieve specific objectives, ranging from the construction of traditional canoes to protection of bird sanctuaries. The youth additionally play an active role in the religious community by being active participants in the planning and conducting of sermons and similar exercises in church activities. The general election of the State of Koror in Palau will be taking place in November of 2017 and currently children and young people are actively participating in the political process by passing campaign leaflets or holding campaign signs of their candidates. Children's participation in daily activities is readily visible and appreciated. More work however remains to ensure participation of children and youth in the administrative and judicial processes.

6. (a) Please update the Committee on the measures taken to prohibit corporal punishment of children in all settings, including in the home.

41. Palauans traditionally believed in corporal punishment as a means of disciplining a child. As mentioned in our report, much work has been done by the Ministry of Education and VOCA to educate the public about protection of children from physical harm and violence including those administered for discipline especially through corporal punishment. The Ministry of Education manuals specifically prohibit corporal punishment. This is supported by data from the CPBR which showed that more than 70% respondents representing different sectors of the community within the three groups of respondents, (i) key informants, (ii) for Child Household Questionnaire and (iii) for Adult Household Questionnaire agree that teachers and school administrators do not physically abuse students. Moreover, to gauge whether within the community children have been physically hurt under the guise of discipline in the household, children and adults were asked the question, "In the past 1 month, has an adult at home hit, smacked, pinched, kicked, flicked you or pulled or twisted your ear?" — 93% of children and 86% of adults, respectively, responded, 'not once'.

42. This also means that there are children who are still physically abused in the home. To gauge the level of emotional abuse (negative environment) in the home, children and adults were asked the question, "In the past 1 month, how often did an adult call you inappropriate name, humiliate you and/or made you feel unwanted?" The responses were, "not once" — 85% children; 88% adults. While in the case of the few children who were physically abused, the father was the abuser most identified. Of those who were emotionally abused, 'other adults', including aunts and siblings were most often the identified abuser. There are still no laws that specifically prohibit corporal punishment, as such there remains a need for greater awareness. There has not been any national campaign specifically to raise awareness of positive discipline and child rearing practices, however, an expert from Guam is regularly brought in by a church organization to hold a 3-day workshop on positive child rearing. The issue is also discussed during regularly held Parents-Teachers Association meetings of all schools throughout Palau.

6. (b) Please also specify if the State party has taken measures to change public attitudes and raise awareness to promote positive, non-violent and participatory forms of child rearing and discipline.

43. The Family Protection Act of 2012 has provided the impetus for awareness raising regarding violence in the home. Positive and non-violent forms of child rearing and discipline cannot take place where violence exists. The Palau Head Start Program which is responsible for early childhood education has taken the lead in raising awareness about

positive parenting. Last year the Palau Head Start Program partnered up with the Judiciary, Ministry of Education, Ministry of Community and Cultural Affairs and a member of the Palau National Congress to lead a Palau-wide awareness campaign about the Family Protection Act. Every year the Palau Head Start Program conducts at least one workshop for at least two of its centers on an issue of parenting that the parents choose. The organization invites other relevant agencies and community partners to participate in the workshops. During the third week of October 2017, another workshop by the Palau Head Start Program occurred and addressed the issue of ‘stress’ in the family. Partners in facilitating the workshop were from the Behavioral Health of the Ministry of Health. Participants discussed topics ranging from source of stress for individual, family and community and solutions by individuals, family and community — all with the idea that parents will be better equipped to raise their children.

44. In October 2017, five years after the passing of the FPA, the Ministry for Community and Cultural Affairs, with the support of *Pacific Women*, conducted a review of the implementation of the Palau FPA and MoU and the availability of services for victims of domestic violence. The aim of the review was to:

- Assess improvements in coordination and services since the MoU came into effect.
- Identify gaps in commitments made under the MoU.
- Assess the extent to which victims of domestic violence have access to support services suitable to their needs.
- Provide recommendations for further actions to improve the effectiveness of the MoU and the FPA and to fill any gaps in service provision for victims of domestic violence.

45. The Ministry of Community and Cultural Affairs intends to use the findings of the review to develop a detailed implementation plan. This plan will provide opportunity to address issues ranging from the need for positive child rearing, to positive investigative processes as well as services for rehabilitation and integration into society.

7 (a) Please provide information on the measures taken to prevent and combat child sexual abuse and child sexual exploitation, including by effective investigation and prosecution of reported cases.

46. External factors such as increased movement of people in and out of Palau due to tourism, increased access to social media through technology, economic hardship and negative environment in some families contribute to increased risks for children in this area. Of the 16 indicators for this issue, Palau was in compliance for (i) the law defining unlawful activity involving children (ii) criminal law penalizes all forms of unlawful sexual acts against children as separate and more serious crimes than similar conduct against adults; (iii) criminal law establishes an age below which a child is deemed to be unable to consent to sexual activities which is the same for boys and girls and (iv) minimum legal age set, with a strict minimum of 15 which is the same for boys and girls. Palau was partially compliant in 3 and non-compliant of the remaining 9 indicators. Six specific areas were identified for remedy, among them: boys not being equally protected as girls and the current absence of legal recognition of female abusers. *RPPL 9-21*, enacted in 2014, updates criminal offenses contained in *Title 17* of the Palau National Code through amendments, repealing and replacement of specific sections. In this update, Chapters 16 — Sexual Offenses; Chapter 17 — Registration of Sex Offenders; Chapter 18 — Child Exploitation, respectively, have detailed provisions regarding those committed against children. The Family Protection Act of 2012 while focusing on violence also addresses these issues. The working group for the implementation of this legislation has conducted many activities to raise awareness of the FPA and its issues.

7. (b) Please also inform the Committee of the measures taken to provide physical and psychological recovery and social reintegration for victims of such crimes.

47. As mentioned above, the Palau FPA implementing agencies along with the Palau Head Start Program led a major campaign to raise awareness on the FPA throughout Palau

this past year. A workshop under the auspices of Australian government took place this month to further strengthen implementation efforts of this law. An Implementation Plan will be developed within next several months under leadership of the MCCA. This plan will, in addition to addressing violence in the home whether gender-based or otherwise, will provide opportunity to address prevention and mitigation, including activities to ensure physical and psychosocial recovery and social reintegration for victims.

8. (a) Please clarify which legislation and policies regulate both domestic and inter- country adoptions of children and what mechanisms exist to monitor the practice of customary informal adoptions.

48. While the sharing of responsibility for child rearing is still broadly based on extended family and clan relationships, adoptions now have to be registered in court in order to gain full legal standing with regards to school registration and other official documentation, including travel documents and those required for decisions regarding inheritance. 21 PNC addresses adoption. Section (404) Adoption of the child over the age of twelve years shall not be granted without the consent of the child. (405) Requires appearance of the child to be adopted. At a certain age the child has to be present in court to give consent (406) adoption allowed only if the court is satisfied that the interest of the child will be served.

8. (b) Please also inform the Committee whether the State party intends to grant Palauan citizenship to children of non-Palauan descent who were adopted by Palauan citizens.

49. The issue of granting Palauan citizenship to children of non-Palauan descent who were adopted by Palauan citizens is not non-significant to Palauans. It is, in fact, of paramount importance to Palauans as indicated by the fact that the words were carefully crafted into our Constitution after much and lengthy debate during the two respective Constitutional Conventions of Palau (1979 and 2006) by the framers of our Constitution. The issue was also included in a referendum during the general election of 2008. The proposed amendment to grant citizenship to children of non-Palauan descent who are adopted by Palauans was rejected by 44.5% of the voters. It should be noted also that 35.9% of the voters were in favor of the proposed amendment. 10% abstained. The issue is a complicated one and the following options have been put forward for consideration: (a) prohibiting Palauans from adopting non-Palauan descent children — this option has its own ramifications including human rights of Palauans living abroad and wanting to adopt children of non-Palauan descent. Such adoptions would be legally recognized where adoption took place but the children will not have Palauan citizenship upon returning to Palau; (b) granting such children limited rights such as a permanent residency and livelihood.

50. The Olbiil Era Kelulau (Palau National Congress) has entertained a bill that would grant permanent resident to non-Palauans adopted by Palauans. The bill failed to pass into law. (c) granting the right to carry a Palauan passport but not the right to inherit or own land or (d) granting the right to full citizenship as have been considered in a referendum. In response to the question in the Child Protection Baseline Research “In your opinion, what rights should non-Palauan children who were born in Palau and have been adopted by Palauan families have?”, the responders said, (i) full citizenship rights, equal to all Palauan people (35%) (ii) only residency rights and to have a Palauan passport but no rights to own land, to vote or hold elected office (42%); (iii) no citizenship rights at all — not even right to hold a Palauan passport (13%). It should be noted that the responses and percentages by different community groups in this survey of 2011 were quite similar to and are reflective of the results of the general referendum in 2008. For the Palauans, the issue is not about discrimination against non-Palauans but rather about protection of the human rights of the indigenous Palauans to the tiny piece of the planet that they call their home. They want to protect themselves from takeover by other people and want to avoid suffering the same plight of so many indigenous peoples around the world who have lost much of their human rights to their land, in their own homeland.

9. Please provide updated information on the measures taken to provide children with disabilities with inclusive education in mainstream schools as well as to provide access to information and all public places and facilities.

51. Rights of Children particularly those with disabilities are addressed by two local non-profit organizations, Omekesang and Palau Parent Empowered in their work towards awareness building and participation in legislative and policy processes and through other appropriate events throughout the year. The Ministry of Education (MOE) recognizes this and thus provides and support opportunities for students with disabilities in educational endeavors that best meet their need and potential interest in life. All Children between the ages of 6 and 17 are mandated to be in school.

52. All children and youth with disabilities ages 3 to 21 yrs are fully included in schools for academic and non-academic curricular activities that best meet individual students' educational need.

53. MOE Special Education is fully supported by US Federal Grant. In addition, the MOE makes effort to accommodate children and students with disabilities. Effort is focused on providing assurances that these children have access to need services or that the needed services are directly delivered to them. MOE has built access ramps; railings; bathroom modifications; classroom modifications; and has directed its regular education teachers to actively participate in capacity building/professional development trainings to better provide services to all children including children with disabilities.

10. (a) Please indicate the steps taken to address the prevalence of non-communicable deceases, such as obesity and diabetes, among children.

54. Program Establishment: Full-time Physical Education Program to encourage children to exercise and stay fit; Changes in school lunch program menu — inclusion of more vegetables and fruits, elimination of high sodium content foods, and no artificially sweetened drinks; MOE is also an active member of the National Non Communicable Disease Coordinating Mechanism Committee and in full support to any programs or effort that promote and ensures that our students make better decisions about their lives and that they succeed.

10. (b) Please also inform the Committee of the measures taken to combat high rates of suicides, drug, alcohol and tobacco abuse, teenage pregnancy and sexually transmitted diseases.

55. Implementation of the Youth Risk Behavior Survey: Data collected from the survey provides relevant evaluation of program design. After school teacher/peer tutoring programs; Inter scholastic competitions; Summer Work Experience Programs; Summer Reading and Math Camps; and Student Exchange programs.

11. (a) Please inform the Committee if the State party has taken measures to prevent dropout rates, particularly at the secondary school level.

56. To prevent student drop out, the Palau High School has implemented student tracking system, whereby student absences and academic progress are monitored and reported through mid-quarter reports. In this way, needed intervention could be implemented to help improve student absences and academic performance before the quarter ends. Moreover, teachers are working in professional learning communities to share ideas on instructional strategies and monitoring student progress. Constant communication with parents is also an area that is being improved to ensure that parents are aware of students' progress in addition to helping teachers intervene when necessary.

11. (b) Please also inform on the measures taken to provide teacher training and ensure that teachers, especially at the level of elementary schools, have the required pedagogical qualifications.

57. The Ministry of Education (MOE) provides funding support for teachers with less than an associate degree to further their education at the Palau Community College (PCC). The Palau National Scholarship Board provides funding support for the bachelors and

master's degrees cohort programs at PCC in partnership with San Diego State University. The in-service trainings for teachers to improve content knowledge and instructional skills are provided regularly throughout the year.

Part II

12. (a) Provide the Committee a brief update on new bills or laws and their respective regulations.

Senate Bill 10-30 Child Centers Regulation Act

58. The bill seeks to address the regulation of all child care centers in Palau; addressing facilities, staff to child ratio as well as the nutritional and other developmental needs of the children.

Senate Bill 10-48

Offer Financial Incentives for Palauan citizens to have large families

59. The bill addresses the concern about the declining population of indigenous Palauans and the need for sustainability of the Palauan culture and national development.

Senate Bill 10-76

To Encourage Probation and Diversion Programs for Juvenile Delinquents and for the Expungement of Juvenile Records

60. The bill seeks to emphasize diversion and reconciliation over punishment in treatment of juveniles and record expungement as a mechanism for providing a new start opportunity for the child.

Senate Bill 10-41

To Establish a National Holiday to Honor the Family

61. The bill seeks to memorialize the family as a positive force in the Palauan community and culture.

12. (b) Provide the Committee a brief update on the new institutions (and their mandates) or institutional reforms.

Executive Order No. 405

To establish a task force to recommend and implement a plan of action to combat human trafficking in the Republic of Palau.

Executive Order No. 394

To create a new agency within the Ministry of Justice known as the Narcotics Enforcement Agency responsible for investigating acts in violation of laws related to, inter alia, illicit drugs, gambling and transnational crimes.
