

# FOCUS

## Asia-Pacific



Newsletter of the Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA)

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### Editorial

#### **Pacific Issues**

The situation of the Pacific Small Island States presents difficult challenges to state compliance with human rights obligations.

Culture and tradition as important elements in the societies of the Pacific Small Island States relate to two major issues: difficulty in curbing and/or remedying domestic violence, especially violence against women; and enactment of laws that adhere to international human rights standards. Many of these Pacific states, having been reminded of the need to address the two issues, argue on the necessity of carefully considering their culture and tradition as they comply with their human rights obligations.

Small island topography and climate-related environmental problems are major concerns that determine the states' decisions on concrete human rights measures to undertake. Some states assert the necessity of addressing the survival of the state as a whole as their human rights priority.

The nuclear weapons testing in the Pacific from the 1950s by the United States, United Kingdom and France has health and environmental issues that have remained unresolved, especially as far as the Marshall Islands is concerned.

In consideration of the challenges, the legal, programmatic and institutional measures put in place in the Pacific Small Island States that support the protection and realization of human rights deserve recognition.

# Pacific Island States: Human Rights Issues

HURIGHTS OSAKA

The Pacific Small Island States, as they are known collectively, consist of Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. They gained the status of independent states mostly in the 1970s (Fiji, Tonga, Solomon Islands, Tuvalu, Vanuatu, Kiribati, Marshall Islands, Micronesia) while two became independent states in 1960s (Samoa and Nauru) and one in 1994 (Palau).

They are all members of the Pacific Community (SPC), whose “focus is on major cross-

cutting issues, such as climate change, disaster risk management, food security, gender equality, human rights, non-communicable diseases and youth employment.”<sup>1</sup> They are also member-states of the United Nations, and have ratified or acceded to some of the human rights treaties as shown in Table 1.

### Review of Human Rights Situation

The discussion below on the human rights situation in the Pacific Small Island States is based mainly on the Universal

Periodic Review (UPR) reports adopted by the United Nations (UN) Human Rights Council, and on one human rights national action plan.

While many issues were covered in the government reports of the eleven Pacific Small Island States and raised by member-states during the interactive dialogue of the UPR, only a few issues are discussed below.

The latest UPR sessions on the Pacific Small Island States occurred during the 2014-2016 period.

Table 1. Ratified/Acceded to Human Rights Treaties (as of 9 August 2017)<sup>2</sup>

Human Rights Treaties <sup>3</sup>	Fiji	Kiribati	Marshall Islands	Micronesia	Nauru	Palau	Samoa	Solomon Islands	Tonga	Tuvalu	Vanuatu
1. CAT	R			Signed	R	Signed					A
1a. CAT-OP					A						
2. CCPR					Signed	Signed	A				R
2a. CCPR-OP2-DP											
3. CED						Signed	R				Signed
4. CEDAW	A	A	A	A	A	Signed	A	A		A	A
5. CERD	A				Signed	Signed		D	A		
6. CESC						Signed		D			
7. CMW						Signed					
8. CRC	R	A	R	A	A	A	R	A	A	A	R
8a. CRC-OP-AC	Signed	A		R	Signed		A	Signed			R
8b. CRC-OP-SC	Signed	A		R	Signed		A	Signed			R
9. CRPD	R	A	A	R	A	R	R	Signed	Signed	A	R

Note: R – ratification; A – accession; D – succession

**Fiji<sup>4</sup>**

During the 29 October 2014 review of the human rights situation in Fiji by the Human Rights Council, the Fijian government delegation reported that a “comprehensive and very progressive Bill of Rights had been created which allowed for the realization of socio-economic rights as well as civil and political rights.” Also,<sup>5</sup>

The Minister for Justice said the Fijian Parliament had approved a bill to remove all references to the death penalty in military laws, and therefore abolishing the death penalty from all national legislation. Fiji was aware that there were patriarchal notions of power relations as well as challenges in tackling violence against women at the legislative and community levels. However, huge progress had been made in establishing a legislative framework for addressing violence against women, including new legal provisions for the offences of rape and sexual assault based on the Australian model as well as domestic violence and child abuse. Fiji encouraged civil society to undergo legal training on the effective implementation of the laws, which were designed to remove discrimination and violence against women.

Two member-states expressed concern about restrictions on freedom of expression under the Constitution, while one member-state noted the restrictions in the Media Decree and the impact of the Public Order Amendment Decree on the exercise of freedom of

peaceful assembly. Part of the government response to the issue is as follows:

While guaranteeing freedom of speech, expression, thought, opinion and of the press, the Constitution explicitly prohibited any speech, opinion or expression that was tantamount to war propaganda, incitement to violence or insurrection against the Constitution, or advocated hatred based on any of the prohibited grounds of discrimination, which included race, culture, ethnic or social origin, sex, gender, sexual orientation and gender identity, language, economic, social or health status, disability, age and religion. Those limitations were also in line with general recommendation No. 35 of the Committee on the Elimination of Racial Discrimination on combating racist hate speech.

The Fijian government officials also reported on new initiatives related to human rights including updated provisions in the Crimes Decree for the offences of rape and sexual assault, the implementation of the Domestic Violence Decree, judicial training, a new National Gender Policy and gender training for civil servants.

**Kiribati<sup>6</sup>**

During the 2015 UPR session, the government delegation of Kiribati reported on the implementation of the “National Approach to Eliminating Sexual and Gender Based Violence: Policy and Strategic Action Plan” and the existence of

“SafeNet, a committee that comprised government ministries, non-governmental organizations (NGOs) and faith-based organizations providing front-line services to victims of domestic violence ... in most islands of Kiribati.” The Children, Young People and Family Welfare Policy, aimed at protecting children against abuse, violence, neglect and exploitation, was adopted. Kiribati criminalized domestic violence through the Family Peace Act 2014 (*Te Rau N Te Mweenga Act*) and established the Ministry of Women, Youth and Social Affairs. The Kiribati Constitution was amended to prohibit discrimination based on race, colour and national origin.

The government delegation of Kiribati highlighted climate change as the major challenge faced by the country. The delegation explained that as

a nation of low-lying islands, with an average elevation of only 2 metres above sea level, climate change and the resultant sea-level rise had added new and major challenges for Kiribati, including loss of territory, severe coastal erosion and involuntary displacement of communities, affecting food and water security. More importantly, it had become an issue of survival for the people of Kiribati.

Aside from the frequent mention of sexual and gender-based violence by member-states during the interactive dialogue of the UPR, other issues raised included the reintroduction of the death penalty, protection of

the rights of persons with disabilities, the strengthening of the Kiribati National Human Rights Task Force (established in 2014), and the broadening of grounds for prohibiting discrimination in the Constitution.

### **Marshall Islands<sup>7</sup>**

The Marshall Islands report to the Human Rights Council in 2015 discussed the Domestic Violence Prevention and Protection Act 2011 and the creation of Domestic Violence Prevention and Protection Task Force in 2012 as an “attachment to the Secretary of Internal Affairs, to ensure the law was implemented, make recommendations, pool resources and lobby for the Nitijela [parliament] to provide financial support from the Ministry of Internal Affairs’ recurrent budget.”

The Marshall Islands government delegation also mentioned the “work on strengthening existing mechanism within government, including the Gender and Development Office and the Child Rights Office within Ministry of Internal Affairs;” but the government was not considering the establishment of a national human rights institution.

The government delegation cited the problem regarding the impact on human rights of the Nuclear Testing Program conducted in the Marshall Islands by the United States from 1946 to 1958. It mentioned the failure of the UN Special Rapporteur on the implications for human rights of

the environmentally sound management and disposal of hazardous substances and wastes to fully access in 2012 the pertinent records in the United States. Many of the historical documents provided to the Marshall Islands were incomplete and in “deleted version only” form and labelled as “extracted, redacted or sanitized” with information of an unknown nature and the volume removed.

The government delegation also explained the challenges being faced by saying that the government “was still distributing drinking water [in some islands]... [and if] it had to decide whether to build a prison for women or a maternity ward, it would choose the latter.” The delegation also emphasized that Marshall Islands had been “subjected to forces beyond their control in terms of displacement of population as well as difficulty in providing basic health and education to their populations,” and therefore recognized the right to exist as primarily important.

### **Micronesia<sup>8</sup>**

The Federated States of Micronesia is a federation comprised of four autonomous States: Chuuk, Kosrae, Pohnpei and Yap. The country consists of widely dispersed islands that presented a unique challenge to governance and service delivery.

The government delegation of Micronesia explained that as a small island country it was difficult to talk about human rights without touching on the

link between the adverse impacts of climate change and the right to develop, live and exist as a nation.

Micronesia enacted the Trafficking in Persons Act 2012, and the corresponding laws against trafficking in persons were enacted in all four autonomous states in 2013. It adopted the National Strategic Development Plan (2004-2023), which covered gender equality issues and steps to address them. Kosrae State enacted its Family Protection Act in 2014, the first law to criminalize domestic violence in Micronesia; while Chuuk State enacted a law that raised the age of sexual consent from 13 to 18 years.

During the interactive dialogue, several member-states cited the high number of domestic violence and trafficking cases. One member-state noted that domestic violence and the abuse of children within the family remained largely unreported as a result of social, cultural and institutional barriers.

### **Nauru<sup>9</sup>**

The government delegation of Nauru explained in the 2015 report to the Human Rights Council the situation of asylum seekers in the country:

9. The Government of Nauru confirmed that, since 5 October 2015, the country’s Regional Processing Centre, which houses asylum seekers, was officially open 24 hours a day, seven days a week. This effectively meant that detention had ended and all asylum seekers were now free

to move around the island at their own free will. That measure had been planned for a while after already implementing a daytime open centre programme, and had been waiting for confirmation of assistance from Australia in the transition. The new arrangements were simply an expansion of the existing open centre programme, which had been in effect for 12 hours per day. It is significant to note that the Government of Australia would be supporting Nauru with safety, security and law enforcement, including providing more Australian Federal Police assistance in that regard.

Nauru enacted several laws (Cyber Crime Act, the Adoption Act and the Education Act amendment, Child Protection and Welfare Act 2016, Crimes Act 2016), and formulated national policies on several issues (National Youth Policy 2009-2015, the National Policy on Disability 2015, the National Policy on Women 2014- 2019 and the National Sustainable Development Plan 2005-2025).<sup>10</sup> It also established the Gender Violence and Child Protection Directorate.

During the interactive dialogue, several member-states raised concerns about abuses suffered by asylum seekers, particularly the reports on abuses of unaccompanied refugee children/minors “who were released into the Nauruan community.”

Several member-states also expressed concern about the high rate of domestic violence

in Nauru and the few cases brought to court against the perpetrators of domestic violence; and the discrimination against women.

**Palau<sup>11</sup>**

The government officials of Palau stressed that “[L]ike other small island developing States, it depends on those [ocean and marine] resources and their protection is inextricably linked to its ability to protect and promote human rights.”

It reported on the domestic violence issue by discussing the enactment of the Family Protection Act in 2012 (which criminalized marital rape and decriminalized homosexuality), revised the Penal Code in 2014 (which included regulations on the use of force against children and other persons under the care or control of another, labor trafficking, anti-smuggling and anti-trafficking crimes and offences, as well as child exploitation, sexual assault of children and registration of sex offenders).

The government established the Family Protection Committee (to promote awareness of the new law, afford people comfort and safety in reporting sexual assault and domestic violence), gender and disability office within the Ministry of Community and Cultural Affairs; hired a Human Rights Officer under the Ministry of Community and Cultural Affairs, and developed policies for persons with disabilities. It also had the “no-drop policy” to ensure that although there might be reconciliation under customary practice, cases would still move

forward to prosecute the perpetrators.

Several member-states cited the abuse of foreigners in Palau, including the “reported increased vulnerability to involuntary servitude and debt bondage as a result of strict labour regulations,” human trafficking, protection of children, and prison conditions.

**Samoa<sup>12</sup>**

The government of Samoa reported the enactment of several legislations in 2013 including the Family Safety Act 2013 (which provided greater protection for families and the handling of domestic violence and related matters through the use of protection orders), Crimes Act 2013 (which introduced several significant changes to provisions relating to sexual offences, such as an increase in maximum penalties; a more inclusive definition of offences, including a variety of forms of unwanted sexual contact; and the criminalization of marital rape); Labour and Employment Relations Act 2013 (which had introduced significant changes into the employment laws of Samoa, such as new maternity and paternity leave entitlements, and the introduction of new fundamental employment rights, including a ban on forced labour and equal pay for equal work), Ombudsman Act 2013 which expanded the functions of the existing Ombudsman to cover that of a national human rights institution. The Education Act 2007 prohibited corporal punishment in schools.

A 2013 constitutional amendment introduced a 10 per cent quota for women representatives in the national Legislative Assembly that led to more women being elected to the legislative body in the 2016 elections and the appointment of Fiame Naomi Mata'afa to the position of Deputy Prime Minister (and concurrently Minister of Natural Resources and Environment).<sup>13</sup> The Family Court of Samoa was established in 2014, while the Drugs and Alcohol Court, which was presided over by female Supreme Court judges, was established in 2015.

Most of the comments raised by member-states during the interactive dialogue recognized these changes in the laws and institutions in Samoa.

#### **Solomon Islands<sup>14</sup>**

The government delegation of Solomon Islands reported that the work of the Truth and Reconciliation Commission had been completed. This was one of the measures to address the ending of the "civil unrest between 1998 and 2003, which affected the rule of law, service delivery, development and economic activities, to name a few areas affecting basic human rights." The delegation cited progress in combating violence against women, especially the adoption of the Family Protection Act of 2014, which criminalized domestic violence in all of its forms and sought to protect victims. The Immigration Act in 2012 and the Immigration Regulations in 2013 criminalized people

smuggling and the trafficking of human beings.

The delegation mentioned the plan to expand the powers of the Ombudsman to cover human rights. A July 2017 media report stated the enactment of the bill on the Ombudsman which included the following objective: "To safeguard the rights of individuals against maladministration, abuse of power or violations of fundamental human rights by the public authorities subject to his jurisdiction."<sup>15</sup>

The delegation also discussed measures to strengthen the judicial system, ensure inclusive education for all children, and facilitate access to water supply, housing and health services. It also reported that a number of bills on children and other issues have been prepared.

Many member-states commended the passing of the Family Protection Act in 2014 and the steps being taken to implement the provisions on sexual abuse and domestic violence. But Fiji noted the barriers to its effective implementation due to traditional attitudes in the Police Force and the judiciary, which sometimes encouraged reconciliation under pressure without putting in place measures to protect against further violence.

#### **Tonga<sup>16</sup>**

The government of Tonga took a clear stand on death penalty in its 2013 report to the Human Rights Council. It explained:

14. Tonga will continue to retain the death penalty as the ultimate criminal sanction under its criminal justice system for the crimes of murder and treason. The Tongan Courts have already set the guiding policy that the death penalty will only be used, in the context of murder, "in the rarest of rare cases when the alternative option is unquestionably foreclosed". The death penalty is seen as a deterrent, and so far this has not increased the murder rate, nor is the murder rate high in comparison to the population. Tonga understands that it may be seen as a de facto abolitionist of the death penalty, however in reality it reserves its position on utilisation of the death penalty only to be used in the "rarest of rare cases," where violence has been at its most abhorrent, the victim at its most vulnerable, the impact universally and emotionally devastating and the alternative sentences do not qualify as appropriate or acceptable alternatives.

Many member-states commented on several issues affecting human rights in Tonga such as domestic violence, discrimination against women, provisions that criminalize consensual same-sex conduct, but they also commended Tonga for democratic reforms, police training on human rights, and educational reforms.

#### **Tuvalu**

The government of Tuvalu used its "Universal Periodic Review

(UPR) commitments, treaty body recommendations and [its] own internal priorities as stipulated in [its] national development plan, the Te Kakeega III" in developing "The Tuvalu Human Rights National Action Plan 2016 – 2020."<sup>17</sup>

The National Action Plan identifies the human rights issues in the country ranging from those arising from climate change, access to justice, health, education, infrastructure, use of force and police procedures, violence, and other issues. There are also provisions specific to children, women and persons with disabilities.

The National Action Plan includes the implementation of relevant laws including the Family Protection and Domestic Violence Act 2014, development of school curriculum to include human rights, the development of training program on human rights for the police, and other measures.

### Vanuatu<sup>18</sup>

The government delegation of Vanuatu reported in 2014 to the Human Rights Council on the developments in the human rights situation in the country by citing the adoption of a number of national policies on specific issues (including the National Plan of Action for Women 2012–2016, Education for All 2001–2015, and National Strategic Plan for HIV and STIs 2014–2018, National Disability Policy and Plan of Action and the National Children's Policy 2008–2015, Universal Primary Education Policy). The

delegation spoke of the establishment of an interim National Human Rights Committee in Vanuatu (created by Cabinet in June 2014), and the enforcement of the Family Protection Act of 2008 including the adoption of "no drop" policy by the Public Prosecutor's Office to ensure that cases of sexual and domestic violence could not be withdrawn. The law made legal aid available to domestic violence victims.

Several member-states raised the persistent problems of domestic violence and unequal treatment of women.

### Major Concerns

#### *Ratification of Human Rights Instruments*

As of August 2017,<sup>19</sup> two Pacific small island states (Palau and Tonga) have ratified only two of the nine major human rights instruments, while two states (Marshall Islands and Tuvalu) ratified or acceded to three instruments. Only the Convention on the Rights of the Child has been ratified or acceded to by all of them; followed by the Convention on the Rights of Persons with Disabilities (CRPD) by nine states (see Table 1). A number of UN member-states repeatedly raised during the interactive dialogue of the UPR the need to accede to all the major human rights instruments. Three states acceded to two human rights agreements after their respective UPRs; Fiji acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in March

2016, while Micronesia and Samoa both acceded to CRPD in December 2016.

The government of Tonga expressed its caution in ratifying the major human rights agreements explaining that "the introduction of new human rights would involve a delicate balancing exercise of important factors, including limited resources, core Tongan cultural values, fundamental Christian beliefs and liberal ideologies." It saw these aspects as constituting unique circumstances in Tonga that should be recognized as reasons for the slow ratification of the core human rights conventions. The government of Tonga explained the non-ratification of CAT "because torture and other cruel, inhuman or degrading treatment or punishment were already prohibited under Tonga's criminal law, and addressed in legislation regarding evidence, extradition and mutual assistance in criminal matters."

On the other hand, Samoa explained that it was

not procrastinating on the ratification of international treaties; it would examine all human rights conventions for possible ratification, but it would first make sure that an adequate legal framework for their implementation was in place. That exercise, which was absolutely essential, would take time.

The stance of the governments of Tonga and Samoa cannot be seen as mere excuse for slow ratification of human rights instruments, it requires serious

study both by the United Nations and its member-states.

#### *Domestic Violence*

The issue of domestic violence has been raised during the interactive dialogue of the UPR on the reports of several Pacific Small Island States. A number of the states reported on the enactment of laws, adoption of policies and establishment of government mechanisms to address domestic violence. And yet the number of reported cases of domestic violence, relating to the situation of women and children, seems to remain high.

#### *Environmental Concerns*

The rising level of sea water that affects several Pacific states presents a unique issue to the region. This situation has led several affected states (Kiribati, Marshall Islands, and Micronesia) to raise it as a matter of “survival for the people” and to emphasize their “right to exist as primarily important.” Other environmental concerns, being attributed to climate change, are equally emphasized as major problems that would prevent the full realization of human rights.

#### *Culture and Human Rights*

The government officials of Marshall Islands explained the matriarchal society in Marshall Islands and the related problems with the current situation in society:

Traditionally, women dealt with the most important aspect of island life, the passage of land rights. The

sense of belonging to the community in an extended family or a clan situation was based on where you must work, own land and be a caretaker for the future children of that land. That aspect, which was the most important [part] of Marshallese society, influenced the behaviour of adults in the community. Over the past decades, with the urbanization of the island population, with the need to be displaced not just by choice but for various reasons including drugs, famine, floods and other reasons, the population had not lent itself to the traditional manner of dealing with extended family issues. As a result, it had to rely on modern law and processes to which access was limited and of which it had an even more limited understanding.

The interaction between “modern law and processes” and socio-cultural values and traditions is an important issue that should be dealt with by many of the Pacific Small Island States.

#### *Nuclear Testing*

Marshall Islands raised the unresolved issue of effects of nuclear testing by the United States in its territory from 1946 to 1958. To the Marshall Islands government, the refusal or failure of the United States to provide full access to those records could only be taken as a “blatant indignity towards and lack of respect for the Marshallese people and represented an ongoing

violation of basic human rights.”

#### *Processing of Asylum Applications*

Nauru reported that it has allowed the asylum seekers in its territory more freedom and the opportunity to be integrated into the Nauran society. However, several member-states remain critical of the system adopted for processing asylum applications for Australia through another country.

*For more information, please contact HURIGHTS OSAKA.*

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#### **Endnotes**

- 1 Pacific Community, [www.spc.int/about-us/](http://www.spc.int/about-us/).
- 2 Ratification/accession status taken from United Nations Human Rights, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx).
- 3 Terms used:
  - CAT - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  - CAT-OP - Optional Protocol of the Convention against Torture
  - CCPR - International Covenant on Civil and Political Rights
  - CCPR-OP2-DP - Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty
  - CED - Convention for the Protection of All Persons from Enforced Disappearance
  - CEDAW - Convention on the Elimination of All Forms of



- Discrimination Against Women  
 CERD - International Convention on the Elimination of All Forms of Racial Discrimination  
 CESC - International Covenant on Economic, Social and Cultural Rights  
 CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families  
 CRC - Convention on the Rights of the Child  
 CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict  
 CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography  
 CRPD - Convention on the Rights of Persons with Disabilities
- 4 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Fiji, A/HRC/28/8, 17 December 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/245/67/PDF/G1424567.pdf?OpenElement>; and A/HRC/28/8/Add.1, 17 March 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/051/91/PDF/G1505191.pdf?OpenElement>.
  - 5 *Human Rights Council adopts outcomes of Universal Periodic Review of Bolivia, Fiji, and San Marino*, 18 March 2015, [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15718&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15718&LangID=E).
  - 6 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Kiribati, A/HRC/29/5, 13 April 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/076/12/PDF/G1507612.pdf?OpenElement>.
  - 7 Discussion mainly based on Report of the Working Group on the Universal Periodic Review - Marshall Islands, A/HRC/30/13, 20 July 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/159/90/PDF/G1515990.pdf?OpenElement>.
  - 8 Discussion mainly based on Report of the Working Group on the Universal Periodic Review - Federated States of Micronesia, A/HRC/31/4, 23 December 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/290/78/PDF/G1529078.pdf?OpenElement>.
  - 9 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Nauru, A/HRC/31/7, 16 December 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/286/17/PDF/G1528617.pdf?OpenElement>.
  - 10 Ibid.
  - 11 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Palau, A/HRC/32/11, 13 April 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/076/66/PDF/G1607666.pdf?OpenElement>.
  - 12 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Samoa, A/HRC/33/6, 27 June 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/132/73/PDF/G1613273.pdf?OpenElement>.
  - 13 Deputy Prime Minister | Sui Palemia, Official Web Portal of the Government of Samoa, [www.samoagovt.ws/directories/deputy-prime-minister/](http://www.samoagovt.ws/directories/deputy-prime-minister/).
  - 14 Discussion mainly based on Report of the Working Group on the Universal Periodic Review - Solomon Islands, A/HRC/32/14, 13 April 2016, <http://undocs.org/A/HRC/32/14>.
  - 15 *Solomon Star*, “Solomon Islands Parliament Passes Ombudsman Bill To Reform Agency,” 27 July 2017, [www.pireport.org/articles/2017/07/26/solomon-islands-parliament-passes-ombudsman-bill-reform-agency](http://www.pireport.org/articles/2017/07/26/solomon-islands-parliament-passes-ombudsman-bill-reform-agency).
  - 16 Discussion mainly based on Report of the Working Group on the Universal Periodic Review - Tonga, A/HRC/23/4/Add.1, 3 June 2013, [www.un.org/ga/search/view\\_doc.asp?symbol=A/HRC/23/4/Add.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/23/4/Add.1).
  - 17 Tuvalu Human Rights National Action Plan 2016 – 2020, Attorney General’s Office of Tuvalu and the Pacific Community, 2016. [https://rrrt.spc.int/images/PDF\\_Files/Tuvalu\\_National\\_HumanRights\\_Action\\_Plan.pdf](https://rrrt.spc.int/images/PDF_Files/Tuvalu_National_HumanRights_Action_Plan.pdf).
  - 18 Discussion mainly based on Report of the Working Group on the Universal Periodic Review – Vanuatu, A/HRC/26/9, 4 April 2014.
  - 19 See ratification status in [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=6](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=6).

# Working for Human Rights: Risks and Consequences

HURIGHTS OSAKA

In his address<sup>1</sup> at the opening session of the United Nations Human Rights Council on 11 September 2017, Zeid Ra'ad Al Hussein, the United Nations (UN) High Commissioner for Human Rights, reported on the human rights situation in many member-states. He noted the numerous reports received by his Office on the arrest, detention and prosecution of human rights defenders, journalists and social media activists.

He cited the harassment, criminal prosecution and denial of State protection of those who work for the rights of the most vulnerable groups in India – including those threatened with displacement by infrastructure projects such as the Sardar Sarovar Dam in the Narmada river valley.

He observed that many Pakistani “journalists and human rights defenders face daily threats of violence.” The threat of vigilante violence existed even for “allegations of blasphemy, or suggestions that blasphemy laws require revision to comply with the right to freedom of thought and religion.” He also observed that the excessive application of the Pakistani digital space law and regulations on non-governmental organization (NGO) activities had “limited critical voices and shrunk democratic space.”

He said that the Philippine President’s “order to police to shoot any human rights workers who ‘are part of’ the drug trade or who ‘obstruct justice’ is yet another blow to the reputation of the Philippines and its people’s rights.”

He noted the delegitimization of human rights organizations in Israel through a 2016 law that considered their work in the Occupied Territory as “anti-Israeli” and through the Prime Minister’s plan to “extend restrictions limiting foreign funding for human rights organisations.” He also noted that the Palestinian human rights defenders faced “harassment, including arrests for social media postings and peaceful protests.” While in both the West Bank and in Gaza, he observed that there appeared to be a “crackdown by the Palestinian authorities on human rights defenders, particularly on journalists and news websites – including legislative measures, arrests and harassment of individuals and bans on websites.”

He expressed concern for the “action taken against defence lawyers” in China.

He was alarmed by the severe restrictions imposed by the Bahraini government on “civil society and political activism through arrests, intimidation, travel bans and closure orders, with increasing reports of

torture by the security authorities.”

## Lawyers

In 2015, the United Nations Committee against Torture expressed concern about the detention of lawyers in China. It was<sup>2</sup>

deeply concerned about the unprecedented detention and interrogation of, reportedly, more than 200 lawyers and activists since 9 July 2015. Of those, 25 remain reportedly under residential surveillance at a designated location and 4 are allegedly unaccounted for. This reported crackdown on human rights lawyers follows a series of other reported escalating abuses on lawyers for carrying out their professional responsibilities, particularly on cases involving government accountability and issues such as torture and the defence of human rights activists and religious practitioners.

The Committee likewise cited other abuses such as

detention on suspicion of broadly defined charges, such as “picking quarrels and provoking trouble”, and ill-treatment and torture while in detention. Other interferences with the legal profession have been, reportedly, the refusal of

annual re-registration, the revocation of lawyers' licences and evictions from courtrooms on questionable grounds...

The Committee is concerned that these reported "abuses and restrictions may deter lawyers from raising reports of torture in their clients' defence for fear of reprisals, weakening the safeguards of the rule of law that are necessary for the effective protection against torture (art. 2)."

### Journalists

The Gulf Centre for Human Rights (GCHR), a non-governmental organization, compiled reports on a number of journalists in the Gulf region that are facing charges in court.<sup>3</sup>

GCHR noted the difficult situation in the Gulf Region and neighboring countries including war (Syria, Iraq, and Yemen), continuing "intimidation, arrest, detention, lengthy prison sentences and even assassination as a result of their writings," and restrictions based on cybercrime and anti-terrorist legislations.

With the armed conflict in Yemen, a 2016 joint letter to UN member-states by NGOs pointed out the "human rights violations committed by all sides and [called] for the international, independent investigation into civilian deaths and injuries in Yemen." A similar call was made by GCHR for the staff of Violations Documentation Centre (VDC) and other personalities in Syria.

In Oman, GCHR noted that the "Internal Security Service (ISS)

systematically targeted media outlets, journalists and online activists." Similarly, in Kuwait, authorities invoked "vague provisions of the new Cyber Crime legislation against those exercising their right to freedom of expression online."

### Role of People Working for Human Rights

The services of lawyers and other human rights workers are needed by people who have limited resources to protect their properties and their rights to livelihood, health and access to public services. Peaceful protests and complaints aired through mass and social media are important means to address the suffering of the poor and make corrupt and/or abusive government officials accountable. Thus lawyers and other human rights workers using the legal and judicial mechanisms to address these issues should be supported rather than stopped on grounds of national security.

Mr Al Hussein also mentioned that those who help the "most vulnerable groups" should be considered "allies in building on India's achievements to create a stronger and more inclusive society."<sup>4</sup> This is how people who help the most vulnerable, marginalized and oppressed members of society should be seen. They help address injustice and the underlying causes and systems that sustain such injustice.

Treating them as threat to national security is tantamount to ignoring the plea of those who need their help in securing the enjoyment of their most

basic right to survive with dignity.

The use of laws on national security (particularly, the anti-terrorism law), cybercrime, and NGOs prevented the free circulation of information, and facilitated detention, arrest, prosecution and imprisonment of people (lawyers, journalists, and NGO workers) who raise issues to the government. The United Nations human rights bodies see the use of these laws against these people as serious violations of human rights.

*For more information, please contact HURIGHTS OSAKA.*

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### Endnotes

- 1 Darker and more dangerous: High Commissioner updates the Human Rights Council on human rights issues in 40 countries, Opening Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, Human Rights Council 36th session, 11 September 2017, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E).
- 2 Committee against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, 3 February 2016, [www.refworld.org/docid/58bed8be4.html](http://www.refworld.org/docid/58bed8be4.html).
- 3 See Gulf Centre for Human Rights, *SEE THEIR STRUGGLE, REALISE THEIR RIGHTS - Human Rights Defenders at Imminent Risk in the Gulf Region and Neighbouring Countries, 2016 ANNUAL REPORT*, March 2017, available at [www.gc4hr.org/report/view/62](http://www.gc4hr.org/report/view/62).
- 4 Zeid Ra'ad Al Hussein, op. cit.

# Human Rights Centers: Serving Local Needs

## HURIGHTS OSAKA

Many human rights centers were established to serve the needs of people in a specific area such as city, province or region. These centers refer to those established or supported by local governments, or based in universities in provinces (or states), and non-governmental organizations (NGOs).

### National Support

National institutions play a role in establishing human rights centers in the provinces or states of the country. The Ministry of Justice and Human Rights in Indonesia supported provincial universities in establishing the *Pusat Studi Hak Asasi Manusia* (Center for Human Rights Studies) and popularly known as PUSHAM; the National Human Rights Commission of Korea (NHRCK) had agreements with “Korean universities since 2006 for the establishment of human rights centers that would make universities the regional hubs on human rights,” the University Grants Commission of India provides financial support to several universities to establish human rights programs that supported the establishment of human rights centers.

The agreement between the Korean universities and the NHRCK highlighting the role of universities outside Seoul as “regional hubs on human rights” points to the necessity of undertaking human rights

initiatives in areas far from the capital cities in order to serve the needs of local people and institutions.<sup>1</sup>

The services of these university-based centers complement the human rights initiatives of local governments and NGOs.

### Policy Advocacy

The General Research Institute on the Convention on the Rights of the Child (CRC Institute), founded in 2002 in Tokyo, has been providing support to a number of cities in Japan on child rights measures. As stated in the profile of CRC Institute, its “main members directly or indirectly contribute to the enactment or implementation of children’s rights ordinances, formulation of comprehensive child policies, development of systems for child participation or remedies for children and restructuring of administrative organizations concerned with children, including by chairing relevant councils, training officials and providing information.”<sup>2</sup>

The CRC Institute works on the Child-friendly Cities campaign in Japan. At least forty local governments in Japan enacted ordinances that are named either as “Child Rights Ordinance” or “Child Ordinance,” with the latter avoiding the word “Rights” due to the<sup>3</sup>

problem of acceptance of the idea of claiming “rights.” Regardless of name, however, the contents of these ordinances do not differ much from each other. Aside from these basic ordinances, many local governments enacted ordinances focusing on specific issues such as prevention of child abuse, child rearing, sound development of children, etc.

The CRC Institute sees the necessity of clarifying the concept of rights among the local government officials while working at the same time for the adoption of local government child rights policy.

Similar advocacy work is done by human rights centers in Indonesia. The Legal Resource Center for Gender Justice and Human Rights (Legal Resources Center Keadilan Jender dan Hak Asasi Manusia) or LRC-KJHAM, a NGO, has a policy advocacy program that “aims 1) to encourage fair gender budgeting, such as having fair contribution of budget on women issues or making the budget capable of making impact on the elimination of discrimination against women, rights of beneficiaries or improvement on status of women in various sectors based on the highest attainable standard of the state; and 2) improvement of the level of

local government policies on women."<sup>4</sup>

Gender-fair budgeting (or gender-responsive budgeting) in Indonesia is based on a law (Presidential Instruction No. 9/2000 on Gender Mainstreaming) and thus has the support of the national government and part of the agenda of local governments.<sup>5</sup> Under this situation, the human rights centers have the opportunity to provide information, materials and training to the local government officials in drafting gender-responsive budgets that not only meet national criteria but suit local conditions. The PUSHAMs have that opportunity being based in academic institutions (universities) with the resources to undertake research, develop localized materials, and capacity-building. Some of the PUSHAMs are working with the local governments in the areas where they operate.

**Protection Measures**

Human rights centers also have programs on working with local communities. The Karen Human Rights Group (KHRG), a NGO, works directly with villagers to<sup>6</sup>

help them overcome outside perceptions of them as 'helpless victims' by focusing on their strengths and the strategies they already use successfully to resist human rights abuses and retain control over their own lives, land and livelihoods. Through this work, [KHRG] hope[s] to catalyze discussions and other processes among villagers themselves that can enhance these strategies and

strengthen their position relative to armed and powerful groups.

In another conflict area, a human rights center faced the challenge of making peace monitoring mechanism effective. The Mindanao Human Rights Action Center (MinHRAC), a Mindanao-based NGO, recommends the following:<sup>7</sup>

To avoid the impression that they [local people] are being exploited for monitoring purposes, it is important that they have a real stake and participation in the monitoring and data generation process. The residents should have the autonomy to decide on the deployment of monitors, trending and forecasting, and many other issues. They can be supported with information on common monitoring template, and other tools.

MinHRAC promotes the idea of<sup>8</sup>

empowering the residents of communities affected by the conflict. The residents of the communities are encouraged to form their own organizations that can coordinate their human rights activities with MinHRAC; which establishes a monitoring system to be run by community organizations.

**Local Libraries**

Many human rights centers maintain a library specializing on human rights. The intended users of the library largely depends on the type of human

rights center involved. Many university-based human rights centers maintain a human rights library to serve the needs of undergraduate students taking up courses on human rights, or those enrolled in human rights masteral or doctorate courses. Some of the human rights centers that operate within a specific locality have library for the people in the place. One example is Al Haq, an independent Palestinian non-governmental human rights organization based in Ramallah, West Bank and established in 1979. It has a specialized international law library for the use of its staff and the local community.

While Al Haq works at a specific locality, the Occupied Palestinian Territory (OPT), it has international connection through its special consultative status with the United Nations Economic and Social Council. Documenting violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, it seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable.<sup>9</sup>

This advocacy program explains the specialized international law library that Al Haq offers to the people in the local community.

The Community Development Library (CDL) provides another example. Established in 1980, CDL aimed to provide development information to activists and organizations who are committed to the promotion of sustainable development,

gender equity, social justice, human rights and community education. CDL maintains twenty-four Rural Information Resource Centres (RIRCs) in various regions of Bangladesh to cater to the information needs of people from all walks of life. The RIRCs have also been carrying out multifarious information, awareness raising, advocacy and policy lobbying initiatives in close collaboration with other development organizations working in the program areas.<sup>10</sup>

### Final Note

Human rights centers that serve the needs of local communities, and of people of "all walks of life," provide a very important role in making human rights known and supported at the local level. This function of the human rights centers complements the role played by other centers working at the national and international levels.

For more information, please contact HURIGHTS OSAKA.

### Endnotes

- 1 See Overview: Human Rights Centers in the Asia-Pacific, [www.hurights.or.jp/english/overview-human-rights-centers-in-the-asia-pacific.html](http://www.hurights.or.jp/english/overview-human-rights-centers-in-the-asia-pacific.html).
- 2 See profile of the General Research Institute on the Convention on the Rights of the Child (CRC Institute), *Directory of Asia-Pacific Human Rights Centers*, <http://hurights.pbworks.com/w/page/11947509/Japan-Centers#GeneralResearchInst>
- 3 Isami Kinoshita, "Japanese Movements on Children's Participation and Child-friendly City," *Human Rights Education in Asia-Pacific*, volume 6, 2015, pages 13-14. Full text of the article available at <https://www.hurights.or.jp/archives/asia-pacific/section1/3%20Japanese%20Movements%20on%20Children%E2%80%99s%20Participation.pdf>.
- 4 See profile of the Legal Resources Center for Gender Justice and Human Rights (LRC-KJHAM), *Directory of Asia-Pacific Human Rights Centers*, <http://hurights.pbworks.com/w/page/11947505/Indonesia%20Centers#LegalResourcesCenterforGenderJusticeandHumanRightsLRCKJHAM>.
- 5 Gender Responsive Budgeting "seeks to ensure that the collection and allocation of public resources is carried out in ways that are effective and contribute to advancing gender equality and women's empowerment. It should be based on in-depth analysis that identifies effective interventions for implementing policies and laws that advance women's rights. It provides tools to assess the different needs and contributions of men and women, and boys and girls within the existing revenues, expenditures and allocations and calls for adjusting budget policies to benefit all groups." UN Women Asia-Pacific, *Gender Responsive Budgeting*, <http://asiapacific.unwomen.org/en/focus-areas/women-poverty-economics/gender-responsive-budgeting>.
- 6 See profile of Karen Human Rights Group (KHRG), *Directory of Asia-Pacific Human Rights Center*, <http://hurights.pbworks.com/w/page/11947531/Thailand%20Centers#KarenHumanRightsGroupKHRG>.
- 7 Zainudin S. Malang, "Local and Community-Led Conflict Monitoring," *FOCUS Asia-Pacific*, [www.hurights.or.jp/archives/focus/section2/2013/09/local-and-community-led-conflict-monitoring.html](http://www.hurights.or.jp/archives/focus/section2/2013/09/local-and-community-led-conflict-monitoring.html).
- 8 Ibid.
- 9 See profile of Al Haq, *Directory of Asia-Pacific Human Rights Centers*, <http://hurights.pbworks.com/w/page/11947521/Palestine%20Centers#AlHaq>.
- 10 See profile of CDL, *Directory of Asia-Pacific Human Rights Centers*, <http://hurights.pbworks.com/w/page/11947494/Bangladesh%20Centers#CommunityDevelopmentLibraryCDL>.

# Reforming Society: Education for Children with Foreign Roots

Halim Kim

The symposium entitled “The Current Situation and Problems of Children with Foreign Roots,” held on 10 June 2017 in Toyonaka city, reviewed the situation of these children from the perspective of rights, poverty, education, culture, nationality, and coexistence. HURIGHTS OSAKA was a member of the organizing committee of the event.

## Discussion Results

In the first session, “Voices from the children and the family,” there were four speakers who shared their experiences, followed by comments from four scholars and the editors of the book entitled *White Paper about the Children with Foreign Roots: Viewpoints from Rights, Poverty, Education, Culture, Nationality, and Coexistence* (2017). One speaker, Masaki Laborte, a young Japanese- Filipino, stated that “everyone lives a life with worries...” but “a difficult life is not a personal matter. We should not use the term human rights as words on a page, but as a means to change society where everyone can value him/herself.” Students from the Osaka Korean High School said, “One for all, all for one. We were taught at ‘Woori’ (our) school how important it is to ensure our rights to learn and know about our culture and our ethnicity.” The last speaker shared her experience of the last twenty years as a migrant in

Japan who suffered the difficulties of being a parent, and who worried about how to support her children in the future. The commentators provided explanations on the political, historical, and social aspects of these experiences.

The second session consisted mainly of group discussions focused on the following questions: what are the main limitations and critical points in helping children?; what are the ideal approaches and success stories in tutoring programs?; and what are the possible solutions to the problems? Meanwhile, the children and youth engaged in cultural exchange activities such as cooking and playing games in another room.

During the plenary session, the groups reported on the experiences and problems faced in helping the children, and the personal and organizational (including financial) constraints that have arisen in recent years due to the political conditions that have made networking between Non-Profit Organizations (NPOs) and the schools more difficult. The discussion pointed out the critical needs of the children with foreign roots. Many groups honestly reported about a sense of isolation among the supporters, the lack of capacity among supporters and school teachers in addressing the problems, and the linguistic problems when communicating with migrant parents.

After the three-hour symposium ended, a social gathering allowed the participants to continue discussions, share their frustrations, and hear more from some of the editors of the book. Members of NPOs and teachers' unions, most of whom have a long history of helping and teaching the children in their career, were inspired by the speeches and seemed to have regained a positive energy back by remembering their initial motivations.

Overall, the symposium was successful in that it allowed the participants to network with others who struggle to solve the problems that surround the children. The participating educators realized the significance these kinds of activities have in encouraging everyone to reaffirm their convictions in tackling problems like child poverty, bullying, isolation, and unemployment affecting these children. The main organizer of the symposium, a representative of Toyonaka International Center, emphasized the importance of supporters continuing their activities and hoped that there would be another symposium.

*Halim Kim is a staff at HURIGHTS OSAKA.*

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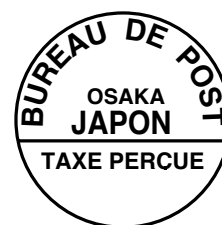
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# HURIGHTS OSAKA Calendar

HURIGHTS OSAKA has so far collected articles from Bhutan, Malaysia, the Philippines, South Korea and Bangladesh for the 8th volume of *Human Rights Education in Asia-Pacific*. Additional articles are expected to come from Japan, Pakistan, Indonesia, and other countries.

HURIGHTS OSAKA is still looking for human rights articles from any country in the Asia-Pacific for the coming publication.

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**HURIGHTS OSAKA**, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan in meeting its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

**FOCUS Asia-Pacific** is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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