



**MARSHALL ISLANDS  
HUMAN RIGHTS COUNCIL  
CANDIDATE 2020-2022**

## **Aide Memoire Marshall Islands Candidature for the United Nations Human Rights Council (2020-2022) Contributions, Pledges and Commitments**

### **Our Domestic Human Rights Record: Overview**

As a Small Island Developing State – and a relatively new nation – we are committed to upholding the highest standards of open democracy and fundamental freedom, and to further national progress on core human rights goals, both in treaty participation as well as our national Constitution. As a developing nation, resources and capacity are often limited and produce implementation challenges – yet full attainment of human rights is a ceaseless and critical goal of the highest priority.

In summary, the Marshall Islands has:

- acceded to or ratified 11 core human rights instruments and optional protocols, and now has among the highest rates of participation in the Pacific islands region, and further consideration of ratifications is planned.
- an independent and impartial judiciary, recognized as a regional leader in performance and reform.
- recently established both a national human rights institution and a national nuclear commission, with a commitment to work towards full Paris Principles compliance.
- strong Constitutional protections through the Bill of Rights which ensures, among other protections, freedom of speech, religion and assembly, an independent media, rights to education, health and ethical government, fair trial and due process, and prevention of discriminatory measures.
- recent legislation and policy reforms which have addressed or are underway to address vital issues in disabilities, health, gender (including gender-based violence) and anti-discrimination.
- highlighted particularly unique or difficult challenges in addressing human rights, including in relation to climate change impacts, nuclear weapons testing impacts, human trafficking and international adoptions. Active efforts are underway to further address these complex challenges, including recommendations from a 2012 visit by the UN Special Rapporteur on hazardous waste.

Detailed information on the Marshall Islands' national human rights record is in the Appendix.

## Key goals in serving on the HRC

- Ensure accountability and active dialogue – with key actors to address complex and challenging human rights situations
  - Improve cooperation between multilateral discussions at the HRC and activities of Special Procedures and mandate-holders.
  - Boost visibility, ownership and implementation of HRC resolutions and outcomes.
  - Listen closely to all UN member states and stakeholders before presuming solutions. The HRC’s credibility is at stake when it fails to speak to critical and emerging specific human rights situations. Direct dialogue is needed to deepen diplomatic understanding on difficult challenges – and the voices of vulnerable communities cannot be overlooked. As a candidate country, we will have an independent voice at the HRC, and seek a balanced agenda.
    - Our vocal role in climate change negotiations shows how small nations can have a unique and powerful role at the UN in building bridges and taking strong action.
- Improve coherent and effective international reporting
  - Work with other HRC members and stakeholders to help Universal Periodic Reporting (UPR) better identify and address unique issues.
  - Seek increased communication and coherence between multiple reporting cycles and treaty bodies.
  - Improve reporting on implementation of recommendations.
- Strengthen the HRC Trust Fund for SIDS/LDC participation and other avenues which boost voices of the most vulnerable communities and UN member states without diplomatic representation in Geneva. As the Marshall Islands will open a UN Mission in Geneva in 2019, we are a positive example on the effectiveness of this Trust Fund’s work in building closer bridges to vulnerable nations and international human rights engagement.

## **Intended Voluntary Pledges and Commitments**

As part of our campaign, the Republic of the Marshall Islands will shortly provide a formal submission of voluntary pledges and commitments to the Secretariat, in line with the criteria for election and membership addressed in UNGA resolution 60/251. We are pleased to summarize the following international and national level pledges and commitments:

### At the national level, the Republic of the Marshall Islands will:

1. Strengthen the existing National Human Rights Committee, including pursuing legislative amendments or referendum to ensure compliance with Paris Principles, and to gain GANHRI “A Status” Classification.
2. Strengthen the NMIRF to improve implementation and reporting, as well as a database to track recommendations and progress. In particular, reforms will ensure the Committee or related institutions will be structured to provide full independence and autonomy, while still ensuring the current appropriate advisory participation from government sources of knowledge.
3. Further pursue legislative action on substantial amendments and reforms, cutting across all national laws and policies, for gender and disabilities.
4. Further action and coordination undertaken by the newly-established National Nuclear Commission, to provide a prioritized plan of action to address issues raised by the 2012 Special Rapporteur (hazardous waste) recommendations, and to enhance efforts to seek meaningful advocacy and justice on behalf of victims.
5. Continue cooperation with special procedures, including the further extension of standing invitations to Special Procedures, and to continue responding positively to communication and follow-up to recommendations (including the Special Rapporteur for Hazardous Waste). Build upon the existing standing invitation to HRC Special Procedures by inviting the following mandates: Water and Sanitation, Right to Education, Environment, and Violence Against Women.
6. Commit to protect against and prevent discrimination in all forms, both in law and practice, including through consideration of an anti-discrimination legislation in parliament, and upscaled progress towards policy formulation on both individual and cross-cutting platforms.
7. Increase involvement and contribution of civil society, including in the formulation and implementation of domestic human rights policy and programs.
8. Consideration in Cabinet and parliament of the 2000 UN Trafficking in Persons Protocol, as well as to increase efforts to investigate and prosecute traffickers under the new law and awareness campaigns. The Marshall Islands is a destination for East Asian and Marshallese girls and women subjected to sex trafficking and a transit point for foreign fishermen subjected to labor trafficking. This has been addressed by recent legislation and implementation of a national action plan as well as additional training.

9. Enhance policy outcomes on illegal international adoptions, including enhanced enforcement, addressing multi-jurisdictional issues, and consideration in Cabinet and parliament of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.
10. Improve prison conditions, which currently do not fully meet international standards. The government has begun construction of a new prison facility intended to be compliant with international standards, and commits to further activity in this regard, within available resources and assistance.
11. Undertake a rights-based approach to climate change adaptation and mitigation.

At the international level, the Republic of the Marshall Islands will:

1. Continue to pledge to uphold the highest standards in the promotion and protection of human rights, both at home and abroad. Work to build space at the HRC for meaningful dialogue and cooperation to make a significant contribution to the realization of the SDG's aspiration that "no one is left behind."
2. Undertake Cabinet and parliamentary consideration of the following treaty instruments:
  - Convention Against Torture Article 22 – Individual Complaints
  - International Covenant on Civil and Political Rights 1<sup>st</sup> and 2<sup>nd</sup> Optional Protocols
  - Convention for the Protection of All Persons from Enforced Disappearance (CED)
  - CED Article 31 Individual Complaints
  - CERD Individual Complaints
  - ICESCR Optional Protocol
  - CRPD Optional Protocol
  - Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption
  - Trafficking in Persons Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children)
3. Continue cooperation with treaty monitoring bodies, including timely submission of reports and implementation. Join the group of friends on national reporting NMIRFs, including to help all SIDS, small nations and LDCs build effective NMIRFs to improve implementation and reduce overall reporting burden.

4. Contribute to global reform of the treaty body system, including seeking cooperative efforts to improve efficiency, effectiveness and coherence between multiple bodies and reporting cycles.
5. Enhance cooperation and support for the OHCHR, including attention provided to strengthening the Trust Fund for participation of SIDS and LDCs at the HRC. Take further steps to make the Council and its mechanisms more accessible to SIDS, LDCs and other small states. Seek to join the contact group on HRC membership. Support and focus priority issues for many SIDS and LDCs, including human rights and environment, climate change and SDGs.
6. Enhance contribution to international deliberation in international human rights fora, including co-sponsorship of HRC and UNGA resolutions on human rights defenders, civil society space, reprisals and renewal of the mandate of the SR on defenders at the HRC, joining of pledges to strengthen HRC membership and standards, committing to and joining joint statements on applying objective, rights-based criteria in addressing situations of concern, as well as for constructive engagement at the HRC generally including subsidiary bodies and special procedures. Pledges to strengthen HRC membership and adherence to membership standards.
7. Strengthen the UPR Process, including reporting on measures to follow-up on recommendations, as well as creative dialogue and effort needed to build stronger bridges between the UPR and pressing human rights challenges in local communities.
8. Commitment to strengthen meaningful engagement of NGOs and civil society with the HRC and UN system, including enhanced informal dialogue and joining efforts to prevent reprisals against defenders.
9. Judge each issue and situation on its merits, and always attach priority concern to the welfare and rights of individual right-holders, especially defenders and victims of human rights violations. Be an independent voice on the HRC by taking a principled and value-based approach to membership.
10. Work to improve the delivery of the HRC under item 10 of its agenda – capacity-building and technical cooperation.

## APPENDIX

### Republic of the Marshall Islands National Human Rights Record in Detail

#### Background

- The Republic of the Marshall Islands has presented its candidature to the UN Human Rights Council (HRC) for the term 2020-2022, with elections to be held during the 74<sup>th</sup> Session of the UN General Assembly in New York in October 2019.
- The Republic of the Marshall Islands, in the north Pacific Ocean, contains a small population spread out over a vast EEZ of 2 million square kilometers. The Marshall Islands is a strong democracy with constitutional affirmation of core human rights. Since independence in 1986 (and upon becoming a UN Member State in 1991), the Marshall Islands government has strengthened its protection of basic human rights, and is committed to further effort. Key challenges include climate change impacts, in particular sea-level rise, addressing impacts from nuclear testing during our time as a UN Trusteeship, and human trafficking.
- The Marshall Islands will have an independent voice on the HRC. We want to emphasize the important role of small nations as bridge-builders, and will pursue a balanced agenda which also strengthens accountability. Many human rights issues are complex, and it is important that we listen closely to all perspectives. As a Pacific Small Island Developing State, we have never before served on the HRC or sought candidacy to any major UN entity.
- The Marshall Islands' term on the HRC will ensure continual improvement of multilateral progress towards the attainment of human rights – our unique national experience provides us a sensitivity to the voices of the most vulnerable, and a first-hand understanding of complex issues.

#### Key national achievements and further aspirations on human rights include:

##### 1. Treaty Participation

- The Marshall Islands now has among the highest rate of human rights treaty participation among Pacific Small Island Developing States, and is committed to pursuing further action in this regard.
- The Marshall Islands is a member of 12 core international human rights instruments and associated protocols, which were approved by parliamentary resolution:
  - International Covenant on Economic, Social and Cultural Rights (ICESCR)
  - Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

- Convention on the Rights of the Child (CRC)
  - Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography
  - Optional Protocol to CRC on the Involvement of Children in Armed Conflict (parliament has approved – transmission to OLA pending)
  - Optional Protocol to CRC on a Communication Procedure
- Convention on the Rights of Women (CEDAW)
  - Optional Protocol to CEDAW
  - Amendment to Article 20, Paragraph 1
- Convention on the Rights of Persons with Disabilities (CRPD)
- International Covenant on Civil and Political Rights (CCPR)
  - Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Other human rights mechanisms
  - ILO Convention 182 (Worst Forms of Child Labor)
- As a small nation, reporting cycles and treaty capacity can be challenging – and we are committed to political consideration in Cabinet and parliament of further accession and ratification, including the following instruments:
  - Convention Against Torture Article 22 – Individual Complaints
  - International Covenant on Civil and Political Rights 1<sup>st</sup> and 2<sup>nd</sup> Optional Protocols
  - Convention for the Protection of All Persons from Enforced Disappearance (CED)
  - CED Article 31 Individual Complaints
  - CERD Individual Complaints Protocol
  - ICESCR Optional Protocol
  - CRPD Optional Protocol

## 2. National Human Rights Institutions

- The Marshall Islands has recently established a national human rights mechanism by act of parliament, with membership composed of civil society, academic experts, and key

knowledge sources within government. The Human Rights Committee was established by law in 2015 as a multi-stakeholder committee with a broad mandate to promote the human rights of the Marshallese people. This includes providing advice to the Government and supporting the development of human rights policy and legislation, public education, monitoring human rights implementation, preparing reports to HRC/UPR process as well as UN Treaty Bodies, and investigating complaints of human rights violations. The Marshall Islands is committed to further actions which will ensure full compliance with Paris Principles for national human rights institutions.

- In addition to the Human Rights Committee, the Marshall Islands has also recently established the National Nuclear Commission, which is composed of three independent commissioners, who are tasked with coordination between national and local governments, as well as stakeholders and survivors, to assist in addressing impacts from the nuclear weapons testing program which occurred between 1946 and 1958 (during UN Trusteeship status). While the Nuclear Commission addresses a wide range of technical topics, its mandate also includes following up on recommendations made by a HRC Special Rapporteur in 2012.

### 3. Independent and Impartial Judiciary

- In 2016, the Marshall Islands was appointed to the Executive Committee of the International Consortium for Court Excellence, and the Marshall Islands judiciary has repeatedly ranked at the top of judiciaries in 14 independent Pacific island nations for transparency, court improvement and assessment.
- The Constitution provides for an independent judiciary, which operates without political interference. Judges are appointed by Cabinet upon recommendations of the civil service commission, and confirmed by parliament. High Court and Supreme Court judges can only be removed by a 2/3rds vote of parliament, for clear failure or inability to perform duties or for serious crimes or abuses.
- The government observes legal safeguards against arbitrary arrest and detention. The state provides lawyers as needed, and due process standards for trials are upheld.
- The Constitutional also established a traditional rights court, which is used to adjudicate questions relating to traditional customary law.

### 4. Basic Human Rights

- The Constitution of the Republic of the Marshall Islands, adopted in 1979, contains a detailed Bill of Rights and was influenced at the time of its drafting by core global human rights instruments and standards.
- The Bill of Rights includes guarantees for Freedom of Thought, Speech, Press, Religion, Assembly, Association and Petition (Article 1). The Marshall Islands maintains a free and independent media in practice, has academic freedom and an educational system free from political indoctrination, and free speech in which individuals are free to express personal views on political or other sensitive topics without fear of surveillance or retribution There is a freedom of assembly and right to protest as well as freedom for civil society groups, including those engaged in human rights and governance -related work. Individuals are free

to practice and express their religious faith in public and private, and religious groups are not required to register with the government – those which seek to register as non-profits are eligible for tax exemptions. The Bill of Rights also assures freedom from slavery and involuntary servitude (Article 2) and unreasonable search and seizure (Article 3), as well as providing for due process, fair trial, just compensation, freedom from cruel and unusual punishment (Articles 4 through 6), privacy, access to judicial and electoral processes, as well as the right of the people to health care, education and legal services (Articles 13 and 14) and the right to responsible and ethical government (Article 16). The Bill of Rights specifically ensures that all persons are equal under the law and that no law or judicial action shall discriminate against any person on the basis of gender, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent (Article 12). The Death Penalty is banned in the Constitution. The Bill of Rights also ensures that other rights, not specifically enumerated in the Constitution, may also be retained by the people.

- Recent National Legislation

The Marshall Islands has recently adopted key legislation and legislative reforms to advance sectoral and cross-cutting progress on human rights challenges, including:

- Domestic Violence Prevention and Protection Act, 2011
- Criminal Code Act 2011
- Marshall Islands Public School System Act, 2013
- Child Rights Protection Act, 2015
- Human Rights Committee Act, 2015
- Rights of Persons with Disabilities Act, 2015
- Youth Service Corps Act, 2016
- Birth, Deaths and Marriages Registration (Amendment) Act 2016
- Prohibition of Trafficking in Persons Act, 2017

## 5. Social Development

- Gender

- The Marshall Islands is committed to the principles of non-discrimination and gender equality that are highlighted in the CEDAW. We recognize our obligations as a state party, and are committed to improving the situation of women and girls. In early 2015, the Government adopted a National Gender Mainstreaming Policy which guides the development of laws, policies, procedures and practices to address the needs, priorities and aspirations of all women and men and eliminate all forms of discrimination and

inequality in key priority areas: government delivery of gender- responsive programs and services, family well-being, gender based violence, economic empowerment and decision making. The Policy also recognize rural women, persons with disability and marginalized groups.

- Gender-based violence remains a serious issue in both the Marshall Islands and the wider Pacific islands region. Recent project-based efforts undertaken with UN Women and other partners, as well as new laws and policies have yielded indications that domestic violence reporting and related judicial protection are improving.
- Disabilities
  - The national Disability Policy sets out to the principles of rights of persons with disability in areas such as education, employment, health, access to buildings and facilities, voting and public office.
  - The Marshall Islands has taken further steps to consolidate disability rights across all sectoral laws, and to address gender- and disability-based discrimination and inequality through a parallel process of legislative review and law reform. This will harmonize our laws with the CEDAW and CPRD conventions and provide a more robust legal framework to promote gender equality and the empowerment of women and girls and will presented to Parliament later this year.
- Education and Health
  - Education is a fundamental right of every child. This is echoed in the Child Rights Protection Act and implemented under the Marshall Islands Public School System Act of 2013. The latter Act creates an autonomous public school system to administer education for children from kindergarten to senior year in high school. The government has recently reviewed its gender and social inclusion policy to include Human Rights, Gender and Nuclear issues in its school curriculum.
  - The Marshall Islands has also adopted a National Reproductive Health Policy Strategy, which outlines the Government’s approach to Sexual and Reproductive Health. It has been developed in line with the IPCD Agenda and reflects commitments to the achievements of IPCD goals, as well as being aligned to national frameworks.
  - The Marshall Islands has among the highest incidence rates for diabetes, and has instituted a range of policy measures including boosting preventive health care and increased availability and access to traditional diet foodstuffs. Despite these measures, evidence indicates a worsening trend, and the President of the Republic of the Marshall Islands, H.E. Dr. Hilda Heine, appeared alongside WHO Director Dr. Tedros Adhanom at the UN in 2018 to help launch a global initiative for increased political will at the highest levels to address NCDs. Communicable diseases, in particular tuberculosis (at one of the world’s highest confirmed rates) also pose challenges. A recent mass-screening in population centers, undertaken in 2018, will prove key in spurring further action.

- Discrimination
  - Following the legislative review, the Government plans to have a new standalone anti-discrimination Bill ready for submission to our parliament by 2019.

## 6. Addressing Complex Human Rights Challenges

Human rights are not just for distant discussions in Geneva but have the greatest visibility in closely-affected and vulnerable local communities. Often, there are no easy or immediate solutions – but the most important steps rely upon direct stakeholder engagement to ensure no voice is unheard. We know from our own national experience the value that the “human rights lens” can add to further progress on difficult issues, and our experience affords us a unique sensitivity towards ensuring that no voice is unheard.

- Nuclear Testing Impacts
  - During its time as a Strategic UN Trusteeship, the Marshall Islands experienced serious impacts from 67 nuclear weapons tests undertaken between 1946 and 1958. The legacy of these impacts has been far-reaching, including displaced communities, health, environment and cultural identity.
  - In 2010, the Marshall Islands accepted specialized procedures from UN Human Rights mandate-holders, and in 2012 welcomed the presence and affirmed recommendations of the UN Special Rapporteur for hazardous waste.
  - In 2016, the Marshall Islands passed legislation to create a National Nuclear Commission, led by three independent commissioners to work with both government agencies, closely-affected local communities and international partners in understanding and addressing nuclear testing impacts, including the human rights dimension.
- Climate Change Impacts
  - The Marshall Islands is a low-lying island nation – consisting of atolls or collections of small, narrow coral islands with an average height of a little over 1 meter above sea-level.
  - Projected climate change impacts, including sea-level rise, pose very difficult threats to the long-term security of local communities and the whole nation – including implications on core human rights.
  - The Marshall Islands participated in the first HRC resolution on climate change and human rights, including serving as a co-sponsor and providing a national report.
  - The Marshall Islands has played a key role in climate diplomacy to forge consensus, including working with coalitions of SIDS, other vulnerable nations, and wide networks of diplomatic partners. Small nations can have a unique role in multilateral

settings in helping to find common ground.

- Our government is preparing a new national strategy on reducing resilience to climate impacts – which includes identifying, understanding and responding to complex long-term risks posed by sea-level rise and environmental vulnerability. This includes ensuring active participation and ownership of the most vulnerable stakeholders, and addressing the human rights dimensions. There are no obvious or easy answers to these complex risks – but our national action on human rights risks posed by climate-driven threats is underway.
- International Adoptions
  - The Marshall Islands established the Central Adoption Agency through the Adoptions Act of 2002, which is responsible for ensuring legal adoptions with judicial oversight and adequate safeguards. However, there is substantial evidence of growing transboundary activity which may be circumventing this law, and the utilization of the Central Adoption Agency has declined. This trend may risk exploitation of women and children.
  - The Government has recently formed a cross-sectoral adoptions committee chaired by the Chief Secretary to address the complex social, legal and multi-jurisdictional international challenges. In early 2018, an adoption agent suspected of violating the Adoptions Act was detained by authorities at the airport, and a judicial prosecution is now underway.

## 7. UPR Progress

- During its second UPR in 2015, the Marshall Islands supported 10 of the 11 clusters of recommendations (supporting 102 of the 111 recommendations, or 91%). Subsequent to the UPR, the Marshall Islands parliament addressed the 9 recommendations not supported during the UPR (regarding establishment of a national human rights institution) by adopting legislation creating the National Human Rights Committee. The Marshall Islands has maintained its open and standing invitation to HRC Special Procedures since 2010, and welcomed the visit and recommendations of the Special Rapporteur for Hazardous Waste in 2012.
- The Marshall Islands has committed herein (under “voluntary pledges and commitments”) to pursuing measures needed to gain full compliance with Paris Principles and “A Status” classification of the national human rights institution.