

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

36TH CONSTITUTIONAL REGULAR SESSION, 2015

BILL NO.: 80ND1

P.L. 2015-49

AN ACT

1
2
3 to create a new Chapter under Title 10 of MIRC in order to establish a Human Rights
4 Committee; to provide for its membership, functions, powers and administration; to establish a
5 complaints mechanism for the redress of human rights violations, and for related purposes.
6

7 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL**
8 **ISLANDS:**

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10 **PART I - PRELIMINARY**

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12 **Section 1. Short Title.**

13 This Chapter may be cited as the Human Rights Committee Act, 2015.
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15 **Section 2. Interpretation.**

16 In this Chapter, unless the context otherwise requires:

17 “**Bill of Rights**” means the Bill of Rights contained in Article II of the Constitution of the
18 Republic of the Marshall Islands;

19 “**CEDAW**” means the Convention on the Elimination of All Forms of Discrimination
20 against Women as adopted by the United Nations on 18 December 1979 and
21 entering into force on 3 September 1981;

22 “**Committee**” means the Human Rights Committee established section 4;

23 “**complainant**” means a person who submits a complaint to the Committee under this
24 Act;

25 “**CRC**” means the Convention on the Rights of the Child as adopted by the United
26 Nations on 20 November 1989 and entering into force on 2 September 1990;

1 “**CRPD**” means the Convention on the Rights of Persons with Disabilities as adopted by
2 the United Nations on 13 December 2006 and entering into force on 3 May 2008;

3 “**human rights**” means the rights embodied in the Universal Declaration of Human
4 Rights as adopted by the United Nations on 10 December 1948, the core
5 international human rights treaties, other international human rights instruments,
6 and the rights and freedoms set forth in the Bill of Rights;

7 “**human rights treaty bodies**” means the United Nations Committees of independent
8 experts of recognized competence in human rights, who are nominated and
9 elected by States Parties to monitor implementation of the core international
10 human rights treaties;

11 “**international human rights treaties**” means the CEDAW, CRC and CRPD, to which
12 the Marshall Islands is a State Party, and any other core or other international
13 human rights treaties to which the Marshall Islands may become a State Party;

14 “**Minister**” means the Minister in assistance;

15 “**respondent**” means the person against whom a complaint is made under this Act;

16 “**UN Human Rights Council**” means the inter-governmental body within the United
17 Nations responsible for strengthening the promotion and protection of human
18 rights around the world, addressing and making recommendations on situations of
19 human rights violations, and discussing thematic human rights issues and
20 situations that require its attention;

21 “**UPR**” means the Universal Periodic Review;

22 “**Working Group**” means the Working Group established under section 9.

23

1 **Section 3. Purpose.**

2 The purpose of this Act is to:

- 3 (a) establish a multi stakeholder body to promote the human rights of all persons
4 living in the Marshall Islands;
- 5 (b) promote the implementation of international human rights standards, including
6 international human rights treaties to which the Marshall Islands is a State Party;
- 7 (c) promote an inclusive and coordinated cross-sectoral approach to the
8 implementation of human rights reporting and programs;
- 9 (d) promote understanding of and compliance with the Bill of Rights and legislation
10 promoting human rights, including the Domestic Violence Protection and
11 Prevention Act 2011, the Child Protection Act 2015, and the Rights of
12 Persons with Disabilities Act 2015; and
- 13 (e) establish a complaints mechanism for the redress of human rights violations.

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15 **PART II - HUMAN RIGHTS COMMITTEE**
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17 **Section 4. Establishment of the Human Rights Committee.**

- 18 (1) The Human Rights Committee, formerly known as the Resources Development
19 Committee, is established.
- 20 (2) The Committee comprises multi-stakeholder members from the following Government
21 offices, private sector, and civil society organizations:
- 22 (a) Chief Secretary, who is the Chairperson;
- 23 (b) Secretary of Internal Affairs, who is the Vice Chairperson;

- 1 (c) Secretary of Foreign Affairs;
 - 2 (d) Secretary of Resources and Development;
 - 3 (e) Secretary of Health;
 - 4 (f) Secretary of Education;
 - 5 (g) Secretary of Finance;
 - 6 (h) Attorney-General;
 - 7 (i) Public Defender;
 - 8 (j) Police Commissioner;
 - 9 (k) Clerk of *Nitijela*;
 - 10 (l) Director, Economic Planning Policy and Statistics Office;
 - 11 (m) Director, National Training Council;
 - 12 (n) Director, Women United Together Marshall Islands;
 - 13 (o) Director, Youth to Youth in Health;
 - 14 (p) President, Marshall Islands Persons with Disabilities Organization;
 - 15 (q) President, Chamber of Commerce.
- 16 (3) In addition, the Committee may invite representatives of in-country development
17 partners, members of professional organizations or academia, or other persons with
18 specialist knowledge or experience in human rights to:
- 19 (a) provide specialist advice that may be required by the Committee; and
 - 20 (b) attend meetings of the Committee.
- 21 (4) In inviting persons under subsection (3), the Committee must ensure gender balance and
22 adequate representation of persons with disabilities and other Civil Society
23 Organizations.

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Section 5. Functions of the Committee.

The Committee is responsible for the following:

- (a) providing a consultative forum to address human rights issues;
- (b) supporting the development of policy, legislative, administrative and other measures, including national strategic plans of action and monitoring tools, to progressively implement international human rights standards;
- (c) monitoring implementation of international human rights obligations;
- (d) providing advice and making recommendations, including setting out the implications of any proposed law or any proposed policy, to Cabinet on matters relating to compliance with human rights standards;
- (e) preparing national reports to the UPR and human rights treaty bodies in a timely manner and according to the relevant guidelines, and following up on recommendations by all international human rights mechanisms;
- (f) receiving and investigating complaints of human rights violations, in accordance with the complaints procedure under Part IV;
- (g) resolving complaints by settlement and referring unresolved complaints to the Attorney General’s Office for further action;
- (h) promoting the mainstreaming of the rights of women, children, persons with disabilities, and other vulnerable groups, into sectoral development plans and strategies;
- (i) coordinating inclusive consultations, including inviting and receiving representations, on human rights with:

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- 1 (i) a broad range of stakeholders, including children, women, persons with
2 disabilities, the elderly, and other marginalized groups; and
3 (ii) representative organizations of stakeholders under paragraph (i).
4 (j) supporting and strengthening the implementation of existing human rights
5 programs;
6 (k) promoting awareness and education programs about human rights;
7 (l) directing the work of the Working Group and other sub-committees;
8 (m) reporting to the relevant Ministry on the outcome of any research, investigation,
9 treaty report, complaint hearing, or other activity conducted by the Working
10 Group or other sub-committee;
11 (n) through the Minister, advocating for sufficient human and financial resources to
12 carry out the above functions;
13 (o) performing such other functions as are conferred on it by this Act or any other
14 Act.

15

16 **Section 6. Powers to appoint sub-committee; and power to delegate.**

- 17 (1) The Committee may appoint one or more sub-committees to deal with any specific
18 human rights issue in detail.
19 (2) A sub-committee appointed under subsection (1) must be gender balanced and include
20 one or more relevant representative organization.
21 (3) The Committee may delegate any of its functions to the Working Group established
22 under section 9 or a sub-committee appointed under subsection (1).

23

1 **Section 7. Functions of the Chairperson.**

2 The Chairperson, or in his or her absence, the Deputy Chairperson, is responsible for:

- 3 (a) the efficient discharge of the Committee's functions;
- 4 (b) calling meetings and notifying Committee members;
- 5 (c) inviting specialists to attend meetings when required by the Committee;
- 6 (d) chairing Committee meetings according to the agenda;
- 7 (e) ensuring all discussion items end with a decision, action or definite outcome;
- 8 (f) reviewing and approving the draft minutes of meetings before distribution;
- 9 (g) discussing and tabling with relevant Ministers, decisions taken by the Committee;
- 10 and
- 11 (h) any related matters.

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13 **Section 8. Meetings of the Committee.**

- 14 (1) The Committee must meet on the third week of every other month or when called by the
- 15 Chairperson, at a time and place the Chairperson appoints.
- 16 (2) The Chairperson may call a special meeting, on receiving a written and signed request
- 17 from at least five members.
- 18 (3) At any meeting, a quorum is formed by five members of which at least two members
- 19 must not hold positions in Government.
- 20 (4) The Chairperson must preside at every meeting at which he or she is present, and in the
- 21 absence of the Chairperson, the Deputy Chairperson must preside.
- 22 (5) If the Chairperson and Deputy Chairperson are both absent from a meeting, other
- 23 members present must elect one (1) of them to preside at the meeting.

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- 1 (6) At every meeting, the Chairperson or other person presiding has a deliberative vote, and
 2 in the case of an equality of votes, the Chairperson or other person presiding has a casting
 3 vote.
- 4 (7) Every question arising at a meeting must be put to a vote and decided by a majority of
 5 votes cast by members.
- 6 (8) Subject to other provisions of this Act, the Committee may regulate its procedures in
 7 such manner as the Committee considers fit.
- 8 (9) The decisions of the Committee on implementation of international human rights
 9 standards and treaties to which the Marshall Islands is a State Party must be published in
 10 the Gazette.

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12 **Section 9. Working Group of the Committee.**

13 A Working Group of the Committee is established and consists of the following:

- 14 (a) Secretary of Internal Affairs, who is the Chairperson;
- 15 (b) Deputy Chief Secretary;
- 16 (c) Assistant Secretary for Program Policy and Assessment, Ministry of Internal
 17 Affairs
- 18 (d) Assistant Secretary for Multilateral Affairs, Ministry of Foreign Affairs;
- 19 (e) Chief of Trade, Ministry of Resources and Development;
- 20 (f) Assistant Secretary for Policy, Planning & Assessment, Ministry of Health;
- 21 (g) Director of Research, Evaluation & Standards, Ministry of Education;
- 22 (h) Assistant Attorney-General;
- 23 (i) Assistant Public Defender;

- 1 (j) Legislative Counsel, *Nitijela*
- 2 (k) Assistant Police Commissioner, Department of Public Safety;
- 3 (l) Chief of Statistics, Economic Planning Policy and Statistics Office;
- 4 (m) Director, National Training Council;
- 5 (n) Director, Women United Together Marshall Islands;
- 6 (o) President, Marshall Islands Persons with Disabilities Organization;
- 7 (p) Health Adolescent Development Coordinator, Youth to Youth in Health;
- 8 (q) Any other member appointed by the Committee, as appropriate.

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10 **Section 10. Functions of the Working Group.**

11 The functions of the Working Group include the following:

- 12 (a) receiving instructions or directions from the Committee for the implementation of
- 13 Committee decisions;
- 14 (b) developing national strategic plans of action for the implementation of rights
- 15 under the core international human rights treaties to which the Marshall Islands is
- 16 a State Party;
- 17 (c) assisting the Committee in the formulation and dissemination of human rights
- 18 policies, practices and procedures, including consultation with civil society and
- 19 other stakeholders;
- 20 (d) reporting, in writing, to the Committee on progress made with regards to
- 21 implementation of Committee decisions, including providing advice and
- 22 recommendations;

- 1 (e) preparing and coordinating UPR reports to the UN Human Rights Council and
2 national reports to human rights treaty bodies;
- 3 (f) advising and making recommendations to the Committee on ratification of
4 international human rights treaties and Optional Protocols to which the Marshall
5 Islands is a State Party;
- 6 (g) researching best practices for implementing human rights standards;
- 7 (h) performing such other functions as are conferred on it by the Committee, this Act,
8 or any other Act.
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10 **Section 11. Functions of the Chairperson of the Working Group.**

11 The Chairperson of the Working Group is responsible for:

- 12 (a) the efficient discharge by the Working Group of its functions;
- 13 (b) calling meetings and notifying Working Group members;
- 14 (c) inviting specialists to attend meetings when required by the Working Group or as
15 requested by the Committee;
- 16 (d) reviewing and approving draft minutes before distribution;
- 17 (e) chairing Working Group meetings according to the agenda;
- 18 (f) ensuring all discussion items end with a decision, action or definite outcome;
- 19 (g) reporting on Working Group meeting outcomes in a timely manner to the
20 Chairperson of the Committee.
- 21

22 **Section 12. Appointment of complaints sub-committees.**

- 1 (1) Upon receipt of a complaint under Part IV, the Chairperson, after consulting the
 2 Committee, may appoint a complaints sub-committee as follows:
- 3 (a) Gender Rights Complaints Sub-Committee to handle complaints relating to a
 4 violation of a right under the CEDAW;
- 5 (b) Child Rights Complaints Sub-Committee to handle complaints relating to a
 6 violation of a right under the CRC;
- 7 (c) Disability Rights Complaints Sub-Committee to handle complaints relating to a
 8 violation of a right under the CRPD;
- 9 (d) any other complaints sub-committee required to deal with a complaint in any
 10 other specific human rights area.
- 11 (2) A complaints sub-committee must comprise three members, one of which must be a legal
 12 practitioner.
- 13 (3) Members of a complaints sub-committee must:
- 14 (a) be independent and have no conflict of interest relating to the complaint; and
 15 (b) have appropriate qualifications or experience, as prescribed by the Committee, in
 16 the particular area of human rights to which the complaint relates.
- 17 (4) For the purpose of subsection (3) (a), an independent person is a person who is not
 18 employed by Government or does not represent Government in any capacity.
- 19 (5) Subject to other provisions of this Act, a complaints sub-committee may regulate its
 20 procedures in such manner as it considers fit.

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22 **Section 13. Functions of complaints sub-committees.**

23 The functions of a complaints sub-committee include -