NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
40TH CONSTITUTION REGULAR SESSION, 2019

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

GENDER EQUALITY ACT, 2019

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GENDER EQUALITY ACT, 2019

AN ACT to create a new Chapter under Title 26 of the MIRC to recognize, protect, promote and enforce the human rights and fundamental freedoms of all women and girls, on an equal basis with men and boys, and to further implement the legal obligations of the Marshall Islands as a State Party to the Convention on the Elimination of All Forms of Discrimination against Women; and to make related provisions.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Gender Equality Act, 2019.

§102. Interpretation.

In this Act, unless the context otherwise requires –

"**Committee**" means the Human Rights Committee established by the *Human Rights Committee Act 2015;*

"**communication**" includes accessible information and communication technology;

"**Constitution**" means the Constitution of the Republic of the Marshall Islands;

"**Convention**" means the Convention on the Elimination of All Forms of Discrimination against Women as adopted by the United Nations on 18 December 1979 and entering into force on 3 September 1981, and

to which the Republic of the Marshall Islands acceded on 2 March 2006;

"**Convention Committee**" means the Committee on the Elimination of Discrimination against Women established under the Convention;

"**Court**" means the High Court;

"**courts**" include the High Court;

"**direct discrimination**" means any act, law, practice or measure that purposefully treats a person unequally or purposefully restricts a person from the exercise, enjoyment or fulfillment of any human right or fundamental freedom;

"**disability**" includes a long-term physical, mental, intellectual or sensory impairment which, in interaction with various attitudinal and environmental barriers, may hinder full and effective participation of a person in society on an equal basis with others;

"domestic violence "is an offense defined in accordance with Section 904 of the Domestic Violence Prevention and Protection Act, 2011;

"Formal equality" means equality of treatment under the law including the absence of discrimination, as distinguished from substantive equality;

"gender" means the socially determined status, roles, and responsibilities attributed to men and women on the basis of their sex in any given society;

"gender discrimination":

(a) means any distinction, exclusion or restriction on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in any area ;

(b) may be indirect or direct, and committed in either the public or private sphere, including by a public authority, organization, enterprise, or private individual; and

(c) includes multiple and intersectional discrimination.

"**gender equality**" means both formal equality and substantive equality and includes the absence of gender discrimination;

"**gender mainstreaming**":

(a) means a strategy for integrating the concerns, needs, and experiences of women as well as men into the design, implementation, monitoring and evaluation of legislation, policies and programs in all areas and at all levels, to ensure that women and men benefit equally; and

(b) includes the process of assessing the implications for women and men of any planned action, including legislation, policies or programs in all areas and at all levels;

"**gender quota**" means a minimum measure of representation of women in a decision-making body;

"**gender stereotypes**" means a generalized view or assumption about the respective attributes or characteristics of men and women, including the roles and responsibilities they are prescribed within the family and in society at large;

"**indirect discrimination**" means any act, law, practice or measure that appears to be neutral but which has a detrimental affect;

"**intersectional discrimination**" means discrimination against a person on several grounds which interact concurrently and which are based on the multiple identities of women including age, ethnicity, disability, marital status, HIV or health status, migrant status, religion, sexual orientation or gender identity;

"**Minister**" means the Minister responsible for women and gender;

"**Ministry**" means the Ministry responsible for women and gender;

"**multiple discrimination**" means discrimination against a person on several grounds which apply at different times or in different circumstances and which are based on the multiple identities of women including age, ethnicity, disability, marital status, HIV or health status, migrant status, religion, sexual orientation or gender identity;

"**multiple identities**" means the multiple identities of women including age, ethnicity, disability, marital status, HIV or health status, migrant status, religion, sexual orientation or gender identity, which may be a basis for multiple or intersectional discrimination;

"**persons with disabilities**" include persons who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others;

"**relevant organization**" means an organization that –

(a) represents the interests of women and girls;

(b) provides services to women and girls;

(c) is engaged in advocacy to promote gender equality or the empowerment of women and girls; or

(d) provides training or education to the public in matters relating to gender equality;

"**Secretary**" means the Secretary of the Ministry responsible for women and gender;

"**sex**" means the physical and biological characteristics that distinguish females and males;

"**sexual harassment**" means an unwelcome sexual advance made in verbal, physical and/or other forms, intimidation, threat and/or other form of coercion or pressure that makes intimate sexual relations unavoidable for the victim or that creates an unbearable hostile environment and/or causes damage in terms of the person's employment, professional, economic, psychological and/or any other aspect of their well-being;

"**special measures**":

(a) mean targeted measures designed to achieve substantive equality for women in all areas where they are historically underrepresented or disadvantaged;

(b) include positive action, preferential treatment, and gender quotas;

(c) with the exception of measures relating to maternity rights, are temporary and shall be discontinued once the objective of substantive equality for women has been achieved and sustained over a reasonable period of time;

(d) shall not be considered as gender discrimination;

"**substantive equality**" means de facto equality or equality of results or impact, as distinguished from formal equality or equality under the law;

"**Universal Declaration of Human Rights**" means the first declaration about the rights and freedoms of the individual as adopted by the United Nations General Assembly in December 1948;

"**vulnerable women**" include pregnant women, including adolescent pregnant women, single mothers, adolescent or young mothers, female heads of households, women with disabilities, older women, and rural and outer island women.

§103. Purpose of the Act.

(1) The purpose of this Act is to –

(a) recognize, protect, promote, and enforce the full and equal enjoyment of all human rights and fundamental freedoms by all women and girls, on an equal basis with men and boys, thereby promoting gender equality and non-discrimination;

(b) further implement the legal obligations of the Marshall Islands as a State Party to the Convention;

(c) adopt and implement a legal framework that:

(i) establishes gender equality in the political, economic, social, domestic, and any other sphere;

(ii) incorporates the Convention into domestic policy and legislation;

(iii) recognizes and upholds all human rights and obligations related to women and girls in all their diversities under the Universal Declaration of Human Rights and other international human rights instruments; and

(iv) promotes gender mainstreaming in all sectors and at all levels.

§104. Scope and objectives of the Act.

(1) This Act –

(a) recognizes that –

(i) all women are entitled to substantive equality in all areas of their lives, on an equal basis with men; and

(ii) gender discrimination is a violation of human rights;

(b) seeks to extend to all women, regardless of their sex, gender or any other of their multiple identities, full protection of their human rights and fundamental freedoms;

(c) recognizes the valuable contribution of women as equal partners to the development of the Marshall Islands, and therefore their right:

(i) to be consulted and actively involved in all decision-making processes, policies, planning, and programming; and

(ii) to be equally represented on all decision-making bodies;

(d) supports there distribution of responsibilities between men and women, particularly in the home, to enable women to participate in all areas of economic, social and political life on an equal basis with men; and

(e) recognizes the importance of allocating adequate human, financial and technical resources to realize the commitments under this Act.

(2) In giving effect to this Act, and all other relevant legislation, the Government, the courts and all other persons and bodies must have regard to –

(a) the purpose and principles of the Convention;

(b) all interpretative guidelines, statements, general recommendations, and jurisprudence of the Convention Committee; and

(c) all other relevant international human rights standards and principles.

(3) This Act must be read and applied so as to achieve in the Marshall Islands the following strategic objectives –

(a) enhanced and effective participation of women as equal partners in national and local development;

(b) gender inclusive and gender responsive development as part of a rights-based approach to development and poverty reduction;

(c) effective collaboration and coordination with development partners;

(d) improved gender statistics, including sex-disaggregated data, in all areas of women's lives; and

(e) effective mainstreaming of gender equality across all policies, planning, programming and budgets at all levels and in all sectors.

§105. Application of the Act.

(1) This Act binds every person in the Marshall Islands, irrespective of the person's nationality or citizenship.

(2) This Act binds the State, civil society and the private sector, including every Government department, local Government, statutory authority, and person in the employment of national or local Government.

(3) Any law that is inconsistent with the provisions of this Act shall be declared invalid to the extent of the inconsistency.

§106. Prohibition of gender discrimination.

(1) Gender discrimination, whether direct or indirect discrimination, is prohibited in all areas, in particular in the political, legal, economic, employment, social and domestic spheres, and by any person, State entity, enterprise or organization.

(2) Gender discrimination under subsection (1) includes multiple and intersectional discrimination.

(3) Violence against women and girls, including sexual harassment, constitutes gender discrimination.

(4) The following do not constitute gender discrimination:

(a) provision of health, educational and other services designed to cater for the specific needs of men and women;

(b) special measures under this Act including Section 8; or

(c) any distinction, exclusion or preference in respect of a particular job based on the inherent requirements of the job.

PART II – HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS TO GUARANTEE GENDER EQUALITYAND NON-DISCRIMINATION

§107. Guarantees for gender equality.

(1) The Government must ensure substantive equality for women in all areas of political, economic and social life, including education, marriage, family life, employment, vocational training, public or political office, health, social protection, and information.

§108. Special measures.

(1) The Government must collect sex-disaggregated data and information in all areas and identify any areas where there is inequality, underrepresentation or disadvantage for women;

(2) Where there is evidence of inequality, underrepresentation or disadvantage for women under section (1), the Government, private sector and civil society organizations must consider the adoption of policies, legislation or programs, including special measures, aimed at achieving or accelerating substantive equality for women.

(3) In particular, special measures may be implemented for the purpose of:

(a) achieving gender equality in the labor market, including through eliminating occupational segregation, wage disparities, and gender disparities in the composition of the workforce, and protecting the maternity rights of women;

(b) addressing gender inequalities in education at all levels, including through the provision of scholarships and support to pregnant students and young mothers; or

(c) promoting substantive gender equality in all other development sectors.

(4) The Ministry must provide for officials and policymakers, at all levels of Government, capacity-building on:

(a) gender equality;

(b) gender mainstreaming; and

(c) special measures for achieving substantive gender equality.

§109. Stereotypes and harmful practices.

(1) The Ministry must:

(a) adopt measures to eliminate gender stereotypes, prejudice, and harmful practices relating to women, including those aggravated by age, disability and any other form of multiple or intersectional discrimination;

(b) strengthen public education and provide training, particularly in rural areas and the outer islands, on the negative impacts of gender stereotypes, and promote public awareness about the Convention and gender equality;

(c) ensure that educational and training institutions at all levels, including educational curricula, textbooks and learning materials, do not promote gender stereotypes;

(d) encourage the media to:

(i) project positive images of women including older women and women and girls with disabilities; and

(ii) promote the value of gender equality for society as a whole; and

(e) monitor and evaluate the measures taken under this Section in order to assess their impact.

§110. Violence against women and girls.

(1) Any form of violence against women and girls in the domestic or public sphere is prohibited without exception.

(2) Violence against women and girls includes:

(a) any form, or threat, of assault, abuse, intimidation, exploitation or other harm, whether physical, sexual, psychological, emotional, or economic, and whether occurring within the family or in the community, including in any educational institution, workplace, or any other public place;

(b) domestic violence as defined in Section 2; and

(c) sexual harassment as defined in Section 2.

(3) No legal defense of justifiable force or any other defense that infringes on the rights of women and girls under this Act is permitted.

(4) The Ministry, in collaboration with the Public Service Commission, the Public Schools System, and other relevant stakeholders, must:

(a) establish and implement comprehensive first response protocols, including emergency treatment, reporting obligations, and sanctions;

(b) develop and implement a training program for health professionals to ensure they understand their responsibilities as first responders and are able to provide appropriate treatment, care and referrals for any woman or girl who is the victim of violence, including domestic violence;

(c) integrate content on gender equality and non-discrimination into curricula at all levels of education, both public and private, from early childhood onwards;

(d) raise awareness in the community, including through educational and media campaigns, on the criminal nature of all forms of violence against women and girls;

(e) target both men and women in any awareness campaign under subsection (d), in order to counter the social acceptance of violence against women and girls, and to encourage reporting of any violation of rights;

(f) establish an efficient and reliable system of data collection on violence against women and girls, including domestic violence, disaggregated by sex, age, disability, ethnicity, and relationship between the victim and perpetrator; and

(g) ensure that women and girls who are victims of violence, including those living in rural areas and the outer islands, have access to adequate support including shelters, legal aid and rehabilitation services.

§111. Access to justice.

(1) The Government must:

(a) provide women with affordable, accessible and timely remedies for any violation of rights under this Act; and

(b) ensure that the judicial system is sufficiently robust to deliver services throughout the Marshall Islands, including rural areas and the outer islands, through the allocation of sufficient human, technical and financial resources.

(2) The Government must promote impartiality and fairness in the justice system in particular in cases of sexual offences and violence against women by:

(a) actively discouraging gender stereotypes that promote gender bias and discrimination; and

(b) establishing a program of gender-sensitive training for judicial and law enforcement officers and other public officials, including on all rights under the Convention and all forms of discrimination, including multiple or intersectional discrimination.

(3) The Government must consider the adoption of special measures to address the under-representation of women in the judiciary.

(4) The Government may:

(a) provide vulnerable women with:

(i) legal aid services;

(ii) exemption from court fees;

(iii) counseling services; and

(iv) transport subsidies for court attendance and to access the legal aid and counseling services under (i) and (iii); and

(b) ensure that legal proceedings are held privately in whole or in part, and that testimony can be given remotely, as may be necessary to protect the safety, privacy and human rights of women who are party to any proceedings.

§112. Participation in political and public life.

(1) Women are entitled to participate in all areas of political and public life on an equal basis with men.

(2) Any act of exclusion, restriction or discrimination against women in respect of the following is prohibited:

(a) the right to participate in the political process, including the right to vote, stand for election, or occupy any political office, whether at national or local Government level;

(b) the right to join and participate in any activities of a political party, labor union or other organization of choice;

(c) the right to be a member of, or occupy any position of seniority, management or leadership in, a political party, civil society or community organization, church institution or group, local Government, or private sector body; and

(d) the right to be a member of, or occupy any position of seniority, management or leadership in, the civil service and labor market, including any board, committee, task force, or State-owned enterprise.

(3) The Government may consider the adoption of special measures to address the under-representation of women in decision-making in the Nitijela, local councils, boards, committees, taskforces, and State-owned enterprises.

(4) The Ministry must, in collaboration with relevant stakeholders, conduct awareness-raising activities among political leaders, community leaders, civil servants, the media, private sector, and the general public on the importance and benefits of women participating in political life and decision-making.

(5) The Government may build the capacity of women electoral candidates, including by seeking technical assistance from international development partners.

§113. Education.

(1) Women and girls have an equal right to education.

(2) Women and girls, including women and girls with disabilities, must have equal opportunities to:

(a) obtain preschool, primary, secondary, vocational, and higher education, including equal access to all subjects;

(b) access professional training and re-training; and

(c) be awarded scholarships.

(3) An educational or training institution, excluding private institution, must not refuse enrolment, restrict or refuse training, or deny any other educational or training opportunity to a person on the basis of sex, gender, or any of the multiple identities of women, including suspending or expelling a female student on the grounds of pregnancy, breastfeeding, marital or maternity status.

(4) Educational and training institutions must:

(a) promote gender equality, human rights, and positive gender roles;

(b) apply a strict no-tolerance policy on sexual harassment, and protect the right of women and girls to be treated with respect and dignity;

(c) ensure that the working and learning environment is free from gender discrimination, and all textbooks and learning materials are without any content that perpetuates gender stereotypes;

(d) ensure that women and girls are able to freely choose their course of study and career, on an equal basis with men and boys;

(e) encourage women and girls to study non-traditional subjects including science, technology, mathematics, and engineering;

(f) provide age-appropriate education on sexuality and reproductive health and rights, and incorporate traditional knowledge, including the traditional knowledge of women, in school curricula;

(g) administer mandatory gender awareness training for teaching staff and students at all levels;

(h) actively seek ways to remove gender disparities in education where they exist, including by special measures; and

(i) promote inclusive education, as provided for under the Rights of Persons with Disabilities Act, 2015.

(5) Educational and training institutions may ensure that female students who become pregnant or are young mothers are given support to continue and complete their education or training, including through special measures.

(6) Special measures under subsection (5) comprise targeted support to safeguard the health and welfare of mother and child and may include:

(a) prenatal and postnatal checkups during school hours;

(b) free school lunches for pregnant and breastfeeding mothers;

(c) breastfeeding and child care facilities within the educational compound; and

(d) adjustment of rules relating to homework, examinations, sport, or other activities, as may be required.

§114. Employment.

(1) Gender discrimination is prohibited in any area or aspect of employment, including the following:

(a) recruitment and hiring, wages and salaries, conditions of employment, benefits, training opportunities, promotion, retirement, retrenchment, termination, or any other relevant area; and

(b) occupational segregation or any restriction on female employment in a particular sector, industry, trade or occupation.

(2) Women are entitled to maternity protection as a fundamental human right.

(3) The Government must establish in both the public and private sectors a system of paid maternity leave consistent with international labor standards.

(4) Every employer in the public and private sector must:

(a) adopt and implement a gender policy aimed at ensuring non-discrimination and gender equality in the workplace;

(b) adopt and implement a zero-tolerance policy on workplace harassment and bullying, including sexual harassment, supported by a confidential complaints mechanism, disciplinary sanctions, staff training, and an information and communication strategy;

(c) actively seek ways to remove gender disparities in the composition of the workforce and promote gender balance, including by special measures;

(d) apply the principle of equal pay for work of equal value in line with international labor standards;

(e) protect pregnant women from types of work likely to be harmful to them during pregnancy; and

(f) provide support to mothers in the workplace including breastfeeding and child care facilities, and nursing breaks.

§115. Health.

(1) The Government must provide women, including pregnant women and mothers, affordable and quality health care including sexual and reproductive health information and services.

(2) Any form of gender discrimination in health care services is prohibited.

(3) The Government must:

(a) establish appropriate health services for women;

(b) develop a comprehensive national strategy to promote women's health, recognizing the importance of women's traditional knowledge and medicine;

(c) make adequate human and administrative resources and budgetary provision for service delivery under subsection (a), including in rural areas and the outer islands;

(d) integrate a gender perspective into all policies and programs affecting women's health; and

(e) involve representative organizations of women and other relevant organizations in the planning, implementation and monitoring of all activities under (a) - (d).

(4) The Government must ensure that all health services are consistent with the human rights of women, including their rights to autonomy, privacy, confidentiality, informed consent, and choice, and no woman, including any woman with disability, must be subject to any forced or non-consensual treatment or procedure including forced sterilization.

§116. Economic empowerment of women.

(1) Women are entitled, on an equal basis with men, to:

(a) establish an economic enterprise;

(b) engage in any economic activity;

(c) access markets;

(d) access loans, grants, mortgages, credit or any other financial services, including from a commercial or development bank; and

(d) access social protection.

(2) The Government must promote women's economic empowerment including through financial services such as credit schemes and financial literacy training, social protection and other support or special measures, especially for women in the informal economy and in the rural areas and outer islands.

§117. Environment, climate change and natural disasters.

(1) The Government must ensure:

(a) equal opportunities for women to participate and engage in the design, development, implementation, and monitoring of all activities relating to disaster risk management and climate change;

(b) the inclusion of a gender perspective in all policies, legislation, plans, programs and budgets under subsection (a);

(c) equal access of women to climate finance;

(d) equal opportunities for women to access training on climate change mitigation and adaptation; and

(e) equal participation of women in international climate dialogue and negotiations.

(2) The Government must collect information and data on the gendered impacts of natural disasters and climate change, and use the information and data to inform gender-responsive legislation, policies, programs and budgets to improve disaster risk management and climate resilience.

§ 118. Women and girls with disabilities.

(1) Women and girls with disabilities are entitled to gender equality and non-discrimination on an equal basis with other women.

(2) The Ministry must adopt appropriate measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by women and girls with disabilities, as provided for under the Rights of Persons with Disabilities Act, 2015.

§ 119. Marriage and family relations.

(1) The legal age for marriage for both men and women is 18 years.

(2) Women are entitled to marry on an equal basis with men including choosing their own partner and entering marriage on the basis of free and full consent.

(3) It is prohibited under any circumstances for a person to force or pressure a woman or girl to enter marriage.

(4) Marriage is only permissible with one partner to the exclusion of all others and every marriage must be registered in accordance with the *Births, Deaths and Marriages Act 1988.*

(5) Women and men have equal rights and shared responsibilities in marriage, including the equal right to decide on the number and spacing of children, and the shared responsibility to provide and care for any children, elderly parents, relatives, or other dependent family members.

PART III – FUNCTIONS AND POWERS TO PROMOTE GENDER EQUALITY

§120. Obligations ofthe Nitijela.

(1) The Nitijela must:

(a) ensure that legislation is consistent with a human rights-based approach;

(b) strengthen the legal framework to ensure compliance with the principles and norms of gender equality established by this

law, other relevant laws, and international treaties to which the Marshall Islands is a State Party; and

(c) approve funds sufficient for the achievement of objectives on gender equality as adopted by this law, other relevant laws, and international treaties to which the Marshall Islands is a State Party.

§121. General obligations of Government.

(1) The Government must promote and ensure the full realization of human rights and fundamental freedoms for all women and girls without any discrimination.

(2) Without limiting the generality of subsection (1), the Government must –

(a) refrain from engaging in any act or practice that is inconsistent with the rights set out in Part II of this Act, and ensure that public authorities and institutions, civil society, and private agencies and individuals act in conformity with those rights;

(b) adopt and implement national strategies, policies and targets to eliminate all forms of gender discrimination, and promote gender equality;

(c) modify or abolish any legislation, regulation, or practice that discriminates against women or is otherwise inconsistent with the Convention;

(d) mainstream gender across all national and sectoral development policies, planning and programs;

(e) introduce and maintain a gender responsive budgeting system;

(f) appoint gender focal points in different agencies for effective coordination, mainstreaming, and implementation of the Convention and this Act;

(g) promote equality of opportunity and treatment for women;

(h) implement all laws on gender equality and ensure effective enforcement;

(i) ensure that instances of violence, abuse, control or punishment of women are identified, investigated and, where appropriate, prosecuted;

(j) adopt measures to prevent workplace gender discrimination in the civil service, private sector and civil society;

(k) provide training on gender equality;

(l) publicize national information on gender equality and carry out awareness raising activities; and

(m) routinely consult and coordinate with relevant civil society organizations including representative organizations of women.

§122. Functions of the Minister.

(1) The Minister must –

(a) ensure compliance with reporting obligations under the Convention;

(b) report to the Nitijela –

(i) annually on Government's fulfillment of its obligations under this Act and the Convention; and

(ii) periodically, as may be required;

(c) perform any other functions assigned to the Minister under this Act or any other Act.

PART IV – ADMINISTRATION AND IMPLEMENTATION

§123. Administration and implementation of this Act.

(1) The Ministry is responsible for the administration and implementation of this Act.

(2) The Ministry is the focal point for matters relating to the implementation of the Convention and this Act, including coordinating implementation with other departments and agencies.

(3) The Secretary –

(a) may delegate, in writing, any of his or her powers or duties to a public officer in the Ministry with relevant qualifications and experience; and

(b) must designate one or more public officers with relevant qualifications and experience to coordinate the Ministry's responsibilities under this Act.

§124. Functions of the Secretary.

(1) The Secretary must –

(a) consult with other Ministries, local councils, representative organizations of women, and other relevant organizations to ensure the effective implementation of this Act;

(b) assist the Minister in the performance of the Minister's functions under this Act;

(c) keep records relating to gender equality matters as required by this Act;

(d) report to the Minister and the Committee at least twice yearly; and

(e) perform any other function ascribed to the Secretary under this Act.

§125. Statistics and data.

(1) The Ministry must ensure the collection of appropriate information and data to enable the Government to formulate and implement policies to give effect to the Convention and this Act.

(2) Statistics and data collected must–

(a) cover all areas relevant to women's lives including:

(i) poverty;

(ii) violence;

(iii) domestic, care giving, and subsistence responsibilities;

(iv) employment;

(v) climate change and natural disasters; and

(vi) access to health care, social protection, housing, and social and economic benefits;

(b) be disaggregated by sex, age, ethnicity, disability, geographical location, socio-economic background, sexual orientation, gender identity and any other status;

(c) be used to:

(i) assess the situation of women and determine the nature and extent of discrimination, inequality, and violence against women and girls;

(ii) measure and value the unremunerated domestic, care giving, and subsistence responsibilities of women;

(iii) make visible the full extent of women's work, and the contributions they make to the national economy, including within the informal economy and the unremunerated domestic sector;

(iv) inform the development of all government policy and guide targeted policy initiatives;

(v) support mainstreaming of gender equality across all legislation, policies, planning and programming;

(vi) support monitoring and evaluation of progress towards achieving gender equality; and

(vii) assess the impact and effectiveness of gender inclusive policies and programming.

(3) In the collection of data, the Secretary must:

(a) collaborate with the Economic Planning Policy and Statistics Office; and

(b) consult with civil society organizations including representative organizations of women.

§126. Gender mainstreaming and gender responsive budgeting.

(1) The Government must adopt gender mainstreaming as a strategy to promote gender equality and eliminate gender discrimination across all government departments and agencies, at all levels, including in all legislation, policies, planning, programming, and budgeting.

(2) The Government must establish and implement a policy of gender responsive budgeting which shall be applied by all government departments and agencies, at all levels, to all policy making, planning and programming.

(3) A training program must be developed to support implementation and enhance understanding across Government of the principles and processes for gender inclusion in the budgetary process.

(4) Gender responsive budgeting must consider the particular needs of women subject to multiple or intersectional discrimination, as well other vulnerable women.

PART V - ENFORCEMENT OF RIGHTS

§127. Right to complain to the Committee.

(1) Any person may make a complaint to the Committee through the Ministry if the person reasonably believes that an act of gender discrimination or any other violation of rights under this Act has been committed.

(2) A complaint to the Committee must be dealt with in accordance with Part IV of the *Human Rights Committee Act 2015*.

§128. Committee investigation where no complaint.

(1) The Committee may initiate an investigation in accordance with Section 1216 of the *Human Rights Committee Act 2015* where the Committee reasonably believes –

(a) that a person or group of persons, including a government department or any public officer, or a private sector organization, has committed an act of gender discrimination or any other violation of rights under this Act; and

(b) the act of discrimination or other act involves a significant infringement of rights which raises an issue of public interest.

PART VI – OFFENSES AND PROCEEDINGS

OFFENCES

§129. Gender discrimination offence.

(1) A person who commits an act of gender discrimination, or other violation of rights under this Act, commits an offence.

(2) It is not a defense to a charge under this Section that the discrimination or other unlawful act arose out of, or was consistent with, any ethnic, religious or other identity or practice.

§130. Penalties.

(1) A person convicted of an offense under Section 29is liable to a fine not exceeding $5,000, or to imprisonment for a term not exceeding one year, or both.

(2) In the case of a second or subsequent offense, a person convicted of an offense under Section 29is liable to a fine not exceeding $10,000, or to imprisonment for a term not exceeding two years, or both.

(3) For any other offense under this Act for which a specific penalty is not provided, the penalty is a fine not exceeding $5,000, or imprisonment for a term not exceeding one year, or both.

§131. Offenses by corporate bodies.

(1) A corporate body that commits an offense under this Part is liable to a maximum fine five times the maximum fine prescribed in Section 30.

(2) If a corporate body commits an offense against this Act, a director or any other person concerned with the management of the body corporate commits the same offense, unless the director or other person proves that –

(a) the offense was committed without his or her consent or complicity; and

(b) he or she exercised reasonable diligence to prevent the commission of the offense, having regard to the nature of his or her functions in the corporate body and to all the circumstances.

OTHER PROCEEDINGS

§132. Discipline of public officers.

(1) If, in the course of duty, a public officer wilfully commits an act of gender discrimination or other violation of rights under this Act, the public officer must be disciplined in accordance with the *Public*

*Service Commission Act 1979*or the Public School System Act, 2013, as appropriate.

(2) Subject to Section 33(3), subsection (1) does not affect any complaint proceedings, prosecution, or other measure adopted against the public officer under Part V or VI.

§133. Civil remedies.

(1) A person alleging gender discrimination or other violation of rights under this Act may apply to the Court for redress by way of –

(a) injunctive relief; or

(b) an award of damages.

(2) This Section -

(a) is without prejudice to any other action with respect to the same matter which is lawfully available to a person; and

(b) does not affect the right to claim damages for any other civil wrong.

(3) Nothing in this Section entitles a person to bring an action for damages against a government department, Minister or public officer who performs their official duties in good faith.

DAMAGES

§134. Assessment of damages

(1) For the purpose of determining appropriate compensation in all civil, criminal, administrative or other proceedings, the Court must take full account of the unremunerated domestic, care giving and subsistence responsibilities of women when assessing damages.

§135. Severability of contracts.

(1) Any contract for employment or for the provision of goods, facilities or services, or any other agreement, is void to the extent that it purports to deny to a person, on the basis of sex, gender, or any of the multiple identities of women, any right or privilege conferred by or

under this Act or in any other way limits the operation and effect of this Act.

PART VII – MISCELLANEOUS

§136. Regulations.

(1) The Minister may, in accordance with the *Marshall Islands Administrative Procedures Act 1979*, make regulations for the effective implementation of this Act.

(2) Without limiting subsection (1) or affecting any other regulation-making power in this Act, regulations may –

(a) prescribe fees and charges for services provided by Government under this Act;

(b) create other offenses;

(c) prescribe penalties not exceeding a fine of $5,000 for an individual or $25,000 for a corporate body; and

(d) prescribe any other matter required for giving effect to this Act.

(3) In making regulations, the Minister must–

(a) obtain the advice of the Committee and the Secretary; and

(b) consult other Government departments, agencies, and statutory authorities, as appropriate.

§137. Severability.

If any provision of this Act is deemed to be unconstitutional, the other provisions remain in full force and effect.

§138. Effective date.

(1) This Act commences one year from the date of certification in accordance with the Constitution and the Rules of Procedures of the Nitijela.

(2) A prosecution for an offense under this Act must not be commenced until after one year of the commencement of this Act.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 168ND3 was passed by the Nitijela of the Republic of the Marshall Islands on the 25th day of September 2019; and

2. That I am satisfied that Nitijela Bill No: 168ND3 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 1st day of October 2019.

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands