



# International Human Rights Instruments

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**Kiribati\***

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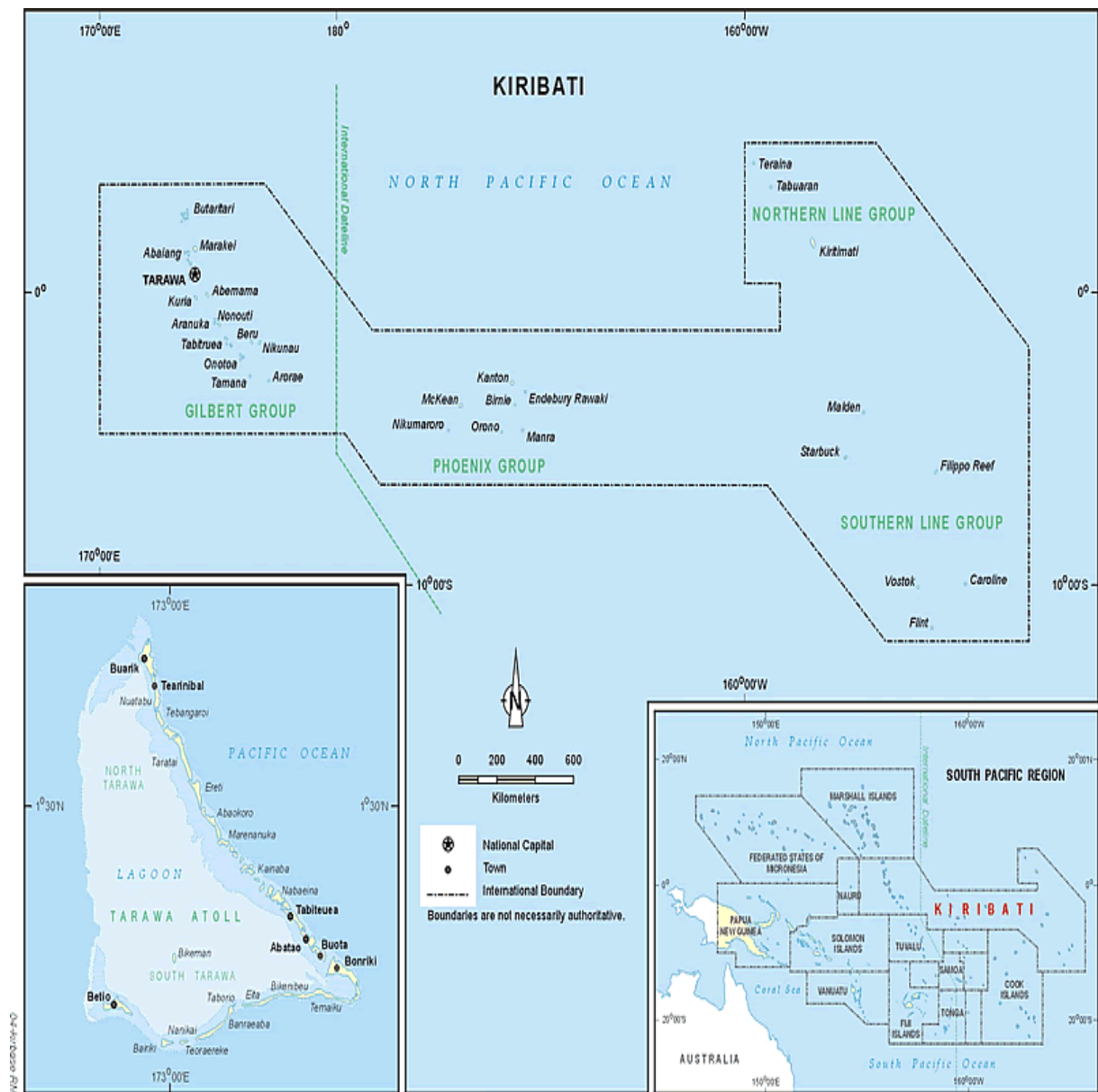


## Acronyms and abbreviations

|          |  |
|----------|--|
| AC       | Armed Conflicts  |
| ANC      | Ante Natal Clinic  |
| CEDAW    | Convention on the Elimination of all forms of Discrimination against Women |
| CFO      | Country Focal Officer  |
| CMR      | Child Mortality Rate   |
| CRC      | Convention on Rights of the Child  |
| CRPD     | Convention on Rights for Persons with Disability                           |
| CYPFWA   | Children Young Persons and Family Welfare Act                              |
| DIU      | Disability Inclusive Unit  |
| DPO      | District Police Officer  |
| EEZ      | Exclusive Economic Zone  |
| EIRC     | Employment and Industrial Relations Code                                   |
| EU       | European Union   |
| EVAW     | Ending Violence against Women  |
| FPA      | Family Peace Act   |
| GDP      | Gross Domestic Product   |
| HIV/AIDS | Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome           |
| HRD      | Human Rights Division  |
| HROs     | Human Rights Officers  |
| IMF      | International Monetary Fund  |
| IMR      | Infant Mortality Rate  |
| KNBC     | Kiribati National Building Code  |
| KNHRT    | Kiribati National Human Rights Taskforce                                   |
| KNHRTF   | Kiribati National Human Rights Taskforce                                   |
| KNMHP    | Kiribati National Mental health policy                                     |
| KV20     | Kiribati Vision within 20 years  |
| MHMS     | Ministry of Health and Medical Services                                    |
| MISA     | Ministry of Internal and Social Affairs                                    |
| MOJ      | Ministry of Justice  |
| MPs      | Members of Parliament  |
| MWYSA    | Ministry of Women, Youth and Social Affairs                                |
| NCDs     | Non-Communicable Diseases  |
| NGOs     | Non-Government Organizations   |
| NHRI     | National Human Rights Institution  |
| OHCHR    | Office of the High Commissioner for Human Rights                           |
| OPL      | Office of the Peoples lawyer   |
| PNA      | Parties to the Nauru Agreement   |

|        |  |
|--------|--|
| RERF   | Revenue Equalization Reserve Fund                            |
| RRRT   | Regional Rights Resource Team                                |
| SDG    | Sustainable Development Goals                                |
| SOPGC  | Secretariat of the Pacific Geosciences Commission            |
| SPC    | Secretariat of the Pacific Community                         |
| SPREP  | Secretariat of the Pacific Regional Environmental Programmed |
| SWD    | Social Welfare Department                                    |
| TCH    | Tungaru Central Hospital                                     |
| U5MR   | Under Five Mortality Rate                                    |
| UDHR   | Universal Declaration of Human rights                        |
| UNICEF | United Nation International Children's Fund                  |
| UPR    | Universal periodic review                                    |
| WDD    | Women Development Division                                   |

The map of Kiribati



## **Chapter 1**

### **General information about the reporting state**

#### **A. Demography**

##### **I. Historical Background**

1. The Gilbert Islands have a long history and people believed that their god Nareau was the one who created their islands by separating heaven and the sea (te Bomatemaki). According to Grimble's genealogy, humans first settled in the Islands in 1000 BC. Later in 1400 AD a small group of Samoans arrived and that was also the first time to establish a traditional meeting house (maneaba). The Spanish explorers were the first Europeans to sight the island in 1600's but did nothing. In 1820, the islands were named after a British captain named Thomas Gilbert in which is now called the Gilbert Islands.
2. In 1892, Captain Davis arrived on the Royalist Hoists Union Jack, established British Protectorate and ended the period of civil wars. In 1900, phosphate was discovered on Banaba (Ocean Island) one amongst the Gilbert Islands which was annexed by Great Britain. Later in 1916 Gilbert and Ellice Islands became British colony.
3. In 1963, an advisory council was established and in 1967 the first house of representatives was elected. In 1976 Ellice Islands was separated from Gilberts and in 1977 an internal self-government was achieved. July 12, 1979 Gilbert gained its Independence and was called Kiribati, officially the Republic of Kiribati. The first elected President or "Beretitenti" was His Excellency Sir Ieremia Tabai who is still a member of parliament this year 2019, from the island of Nonouti.
4. In terms of land area and population, Kiribati is one of the smallest nations in the world, but in geographic spread of ocean, it is one of the largest. The distance from the capital Tarawa in the west to Kiritimati in the east is about the same as from Los Angeles to Washington in the United States. With a total land area of 810 square kilometers, the islands of Kiribati make up only 0.02 per cent of the nation's sea area.

##### **II. Geography including climate**

5. Kiribati consists of three island groups: The Gilbert group and Banaba in the west, the Phoenix Group in the centre and the Northern and South Line islands in the eastern part of the country. It is one of the smallest and narrowest island states in the Pacific and one of the smallest in the world.
6. Most islands have coastal lagoons. Some lagoons are large (up to 80 km long) and bounded to the east by narrow strips of land. There are no hills or streams on the island. The UN's 1989 report on the 'greenhouse effect' listed Kiribati as an endangered country in the event of a rise in sea level during the 21st century.
7. The climate is tropical and uniform throughout the year with temperatures ranging between 72°F/22°C and 90 °F/32°C, the difference lying in the amount of rainfall. March to October are generally the dry months with the Northwest trade winds blowing. November to April are generally the wettest months with occasional heavy rains and strong gale force winds even though Kiribati is outside the cyclone belt. This climatic pattern has changed in recent years with climate change and it is uncommon for the wettest month falling within the normally dry and hottest months.
8. Kiribati only experiences sea level rise as a natural disaster, no cyclones or earthquakes. With the increase of sea level, Kiribati face a lot of damages such as coastal erosion, salty underground water, unfertilized soil for farming affecting food security and health. Therefore, sea level rise is a very big issue, one that is threatening the lives of Kiribati people.
9. Land to an I-Kiribati is of high value and significant importance. Apart from being the basis of subsistence, it also has social, political and legal significance. Land everywhere

indicated wealth, prestige and social security, but this attitude was particularly marked in the chiefly societies of the central and northern Gilbert Islands (Aspects of History: 21).

### III. People, language, culture and tradition

10. Extensive intermarriage over the centuries has produced a population that is largely homogeneous in appearance.

11. The Kiribati people are Micronesians with medium stature, straight hair and brown skin. The language they speak is Gilbertese (or te taetae ni Kiribati). English, which is the official language, is also widely spoken, especially on the capital Tarawa.

12. Although the majority of the population is made up of indigenous or natives there are considerably large number of islanders with mixed heritage originating from the colonial era when Kiribati and Tuvalu were once under British administration. There are also European and Asian immigrants living in the country but they made up relatively smaller number of the population.

Table 1

**Ethnic groups existing in Kiribati, 2015**

| Population By Island and Ethnicity: 2015 |         |            |                   |                     |                    |        |               |                |      |          |         |       |
|--|---------|------------|-------------------|---------------------|--------------------|--------|---------------|----------------|------|----------|---------|-------|
|  | Total   | I-Kiribati | I-Kiribati/Tuvalu | I-Kiribati/European | I-Kiribati/Chinese | Tuvalu | Aust<br>ralia | New<br>Zealand | Fiji | European | Chinese | Other |
| Total                                    | 110,136 | 105,983    | 959               | 556                 | 459                | 198    | 39            | 668            | 69   | 93       | 121     | 991   |

Source: Extracted from Kiribati Population and Housing Census, 2015.

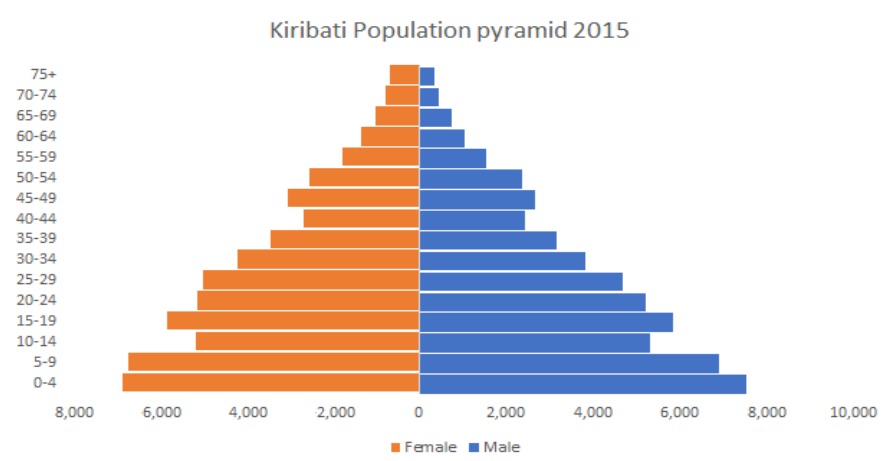
13. I-Kiribati way of life is very much influenced by their environment of low-lying coral islands scattered in the Central Pacific. Traditionally, Kiribati society is predominantly patriarchal with defined gender roles. While cultural practises, norms and values are generally homogeneous and shared throughout the country, the culture in Kiribati is complex and diverse with each island having their unique tradition. For instance, chiefly system is very common in the northern and central islands whereas in the other islands the maneaba system is common. This culture is the foundation of the I-Kiribati existence and has served Kiribati well over centuries.

### IV. Population and housing

14. Based on the 2010 census, Kiribati had a population of 103,058 with 50,796 males and 52,262 females. In 2015, the total population was 110,136 with 56,040 females and 54,096 males.

Figure 1

**Population of Kiribati in 2015**

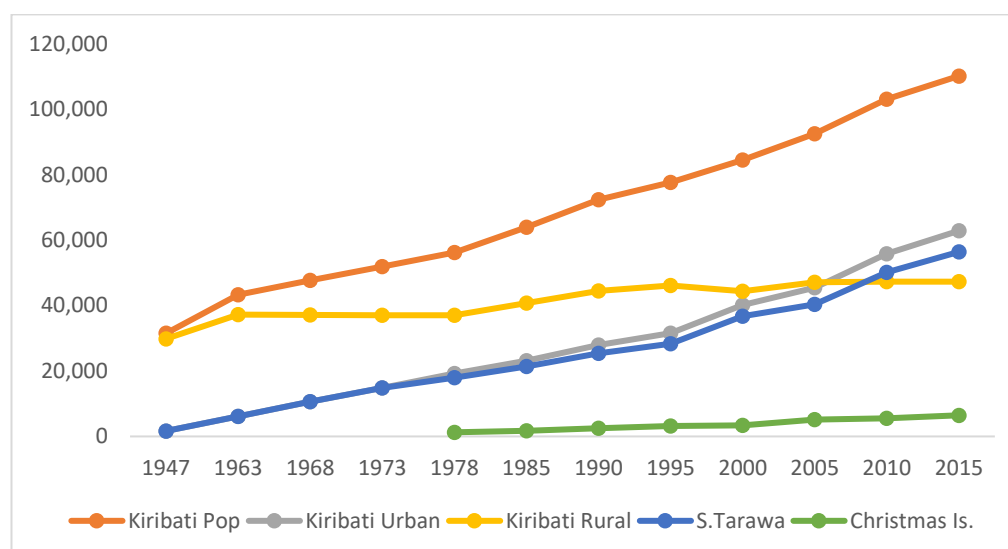


Source: Kiribati Population and Housing Census 2015.

15. I-Kiribati mostly live in villages with numbers varying between 50 and 3,000 on the outer islands. Most of the houses are made from local materials using coconut stem and pandanus leaves. The largest concentration of the population is on South Tarawa where more than half the population resides in permanent and semi-permanent buildings. Housing in Kiribati is categorized in either a house from the Kiribati Housing Corporation or Linnix housing. People in Kiribati can live in their own house or living in a relative or friend's house. The last one is living in the rental house. The government does not have enough houses for public servants, people that are not from the capital (Tarawa) therefore, houses are rented for government employees who work on Tarawa.

Figure 2

**Trends in urban and rural population growth in Kiribati since 1947**



Source: Population and Housing Census, 1947–2015.

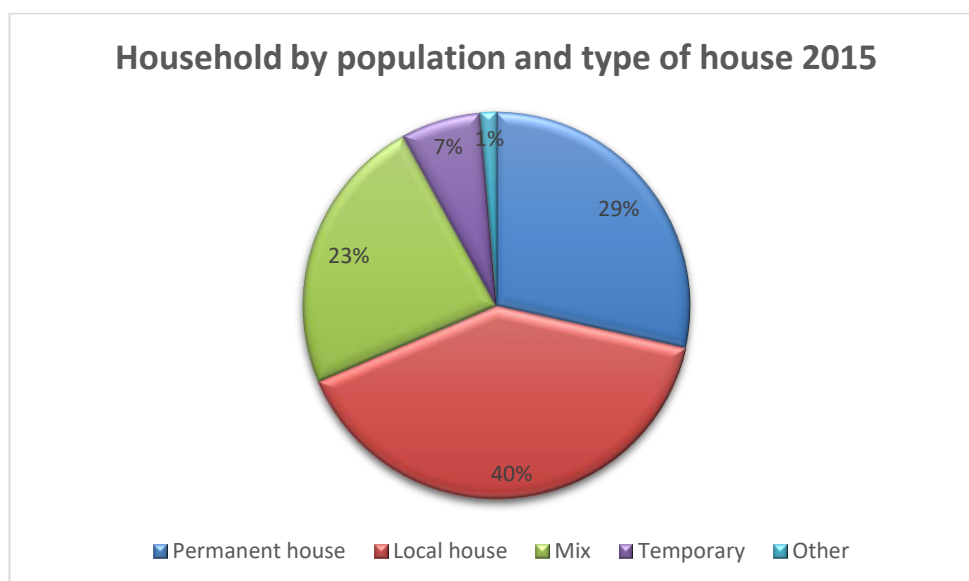
Table 2

**Households and ownership of house in 2010 and 2015**

| Year | Govt including KHC houses | Privately owned | Rent from private owners | Others |
|------|---------------------------|-----------------|--------------------------|--------|
| 2010 | 2 011                     | 12 921          | 266                      | 845    |
| 2015 | 1 345                     | 14 934          | 307                      | 1 186  |

Source: Kiribati Population Census, 2010 and 2015.

Figure 3

**Distribution of Households by type of construction used, 2015**

Source: Kiribati Population and Housing Census 2015.

16. Traditional social structure is diverse. Chiefs or kings once ruled in the northern and some central islands, and 'Te Botaki n Unimwane' or Councils of Elders ruled with authority in the southern islands and some central islands of the Gilbert group, a system still very much practised today. The Phoenix Islands (except for Kanton, which has a small Government presence) and the central and southern Line islands are uninhabited. The population on the three islands in the Northern Line Islands, Kiritimati, Tabuaeran, Teraina, and Kanton in the Phoenix group are recently settled and do not have similar entrenched traditional social structures in place.

17. Kiribati has a strong and vibrant culture and a traditional heritage that is based on peaceful community co-existence, which shapes all aspects of everyday life. These cultural norms clearly define gender roles and the head of the family unit or 'utu' (which usually refers to the extended family living together or 'kainga,') is the eldest male who participates in formal traditional meetings and traditional decision making. This traditional practise has continued today, especially in the Southern Gilbert group, with minor changes in some islands recognising the role of women's organisations and families with no male elders can be represented by the oldest female in the utu.

## V. Religion

18. Christian missionaries led by Reverend Hiram Bingham first visited Abaiang in the northern Gilbert group in November 1857. In 1870, the London Missionary Society (LMS) sponsored visits by the Samoan clergy, arrived at Arorae, Tamana, Onotoa and Beru with the first two islands now strict followers of the LMS forbidding other churches from establishing on the island. In 1888, the first Roman Catholic missionaries visited Nonouti in the Southern Gilbert Group. Total population of Nonouti is 2,743 and 1,520 attends Roman Catholic.

19. According to 2010 census report, Christian groups form about 96% of the Kiribati population by census counts, most of whom are either Catholic or members of the Kiribati Uniting Church. Persons with no religious affiliation account for about 0.05% of the population. Members of the Catholic Church are concentrated in the northern and central islands, while Protestants are the majority in the Southern islands.



Table 3  
Population by religion in Kiribati, 2015

Population by island, sex and religion: 2015

| Table 6: Population by island, sex and religion - census 2015 |         |                |        |                       |               |                   |                 |       |                             |       |             |        |            |             |       |
|---|---------|----------------|--------|-----------------------|---------------|-------------------|-----------------|-------|-----------------------------|-------|-------------|--------|------------|-------------|-------|
| Total   | Total   | Roman Catholic | KPC    | Seventh Day Adventist | Church Of God | Latter Day Saints | Assembly of God | Bahai | Jehova's Witness (Te Koaua) | Islam | Four Square | Te Ran | All Nation | No religion | Other |
| Total   | 110,136 | 63,116         | 34,464 | 2,064                 | 279           | 5,857             | 364             | 2,314 | 352                         | 139   | 77          | 86     | 141        | 51          | 832   |
| Male  | 54,096  | 30,963         | 16,924 | 996                   | 140           | 2,843             | 182             | 1,163 | 151                         | 77    | 38          | 40     | 67         | 32          | 480   |
| Female  | 56,040  | 32,153         | 17,540 | 1,068                 | 139           | 3,014             | 182             | 1,151 | 201                         | 62    | 39          | 46     | 74         | 19          | 352   |

Source: Kiribati Population Census, 2010 and 2015.

## VI. Fertility

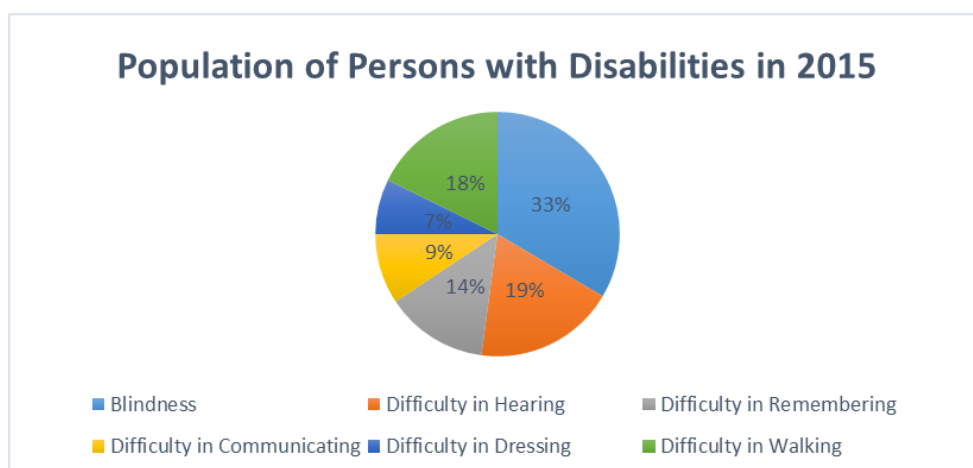
20. Family Planning was traditionally known as spacing of children translated as Babairean te Utu. This is now known as Marurungin te Utu (healthy family program). The high population growth remains to be a significant development challenge. The total fertility rate has increased from 2.7 in 2011 to 3.7 in 2016. Between 2005–2010 the adolescent (15–19 years), fertility rate was 39 per 1000 women which was around the median for the region and reflected the low contraceptive prevalence rate of 36% of women of reproductive age. The ministry of health has prioritized family planning with a strategic objective of increasing access to and use of high quality, comprehensive family planning services, particularly for vulnerable populations including young people and women whose health and wellbeing will be at risk if they become pregnant.

21. There are eight contraceptives methods available and used in the country; they are Microgynon, Jadell, Depo Provera, condom, vasectomy, tubal ligation, copper intrauterine device; and Billings Method.

## VII. Disability

22. People with disabilities are among the most marginalized and excluded groups of society and they often lack access to essential services such as health care and tend to be excluded from education, economic and social opportunities and political spaces, which hinders their ability to effectively realize their right to survival. a coalition of groups concerned about disability carried out a national disability survey in 2003 to 2005 with support from Inclusion International and funding from the Government of New Zealand. It brought to light the prevalence of disability and helped assess the welfare of persons with disabilities in the country. In the 2015 census, Kiribati incorporated the Washington Group Short Set of Questions on Disability in the census questions, which helped the state to have national disability data to work with at a national level (Kiribati Disability Monograph, 2017). There are still improvements needed however, the Ministry of Finance and Economic Development of Kiribati showed support and agreed to include the set of questions on disability every census. On 25 September 2018, the Kiribati Government launched the Kiribati National Disability Policy and Action Plan for the years 2018–2021. This Policy and Action Plan provides the framework and strategies to help all stakeholders implement the CRPD and to promote, protect and fulfill the rights of persons with disabilities.

Figure 4  
Number of people living with disabilities, 2015



Source: Population and Housing Census 2015.

## VIII. Economy

23. Because of the fragility of the atoll environment and the poor porous soil (mainly coral sand), agriculture and farming in Kiribati face serious constraints and challenges on what can be grown on the islands. Coconuts, pandanus, breadfruit, pumpkins and pawpaw grow prolifically on the islands. The surrounding ocean and its abundant marine resources, which are a major source of daily sustenance for the people.

24. The public sector dominates the economy by 21 percent, while private sector activity, mostly fishery, subsistence agriculture and retail trade, remains limited. Weaknesses are from the geographical isolation; poor infrastructure, challenging business climate and a volatile financial environment pose further development obstacles. Limited job opportunities in the private sector, coupled with the fast-growing labor force, has led to a high unemployment rate at around 60 percent (Population and Household Census 2015).

25. Despite the challenges, in 2017, an IMF team visiting Kiribati at the end of its Article IV consultations issued a very positive message:

26. *“Kiribati’s economic fundamentals have strengthened in recent years. Strong fishing revenue improved the fiscal position, strengthened the current account, and boosted business confidence. After registering a double-digit rate in 2015, real GDP growth declined to 1.1 percent in 2016, but is projected to pick up to about 3 percent this year driven by construction and wholesale and retail trade. Inflation has remained subdued in line with the prices of imported goods. With several donor-financed infrastructure projects in the pipeline and fishing revenue projected to remain robust over the medium term, economic prospects are broadly favorable.”* (IMF Press Release Sept 2017).

27. This is much-needed positive forecast from the IMF for a country that was devastated on the eve of independence in 1979 by the cessation of phosphate mining on Banaba by the British Phosphate Commission. Revenue from phosphate mined in Kiribati at that time accounted for 80 per cent of exports and 50 per cent of government revenue. The loss of the phosphate industry caused a huge drop in GDP and no other product or sector at that time could make up for the lost revenue.

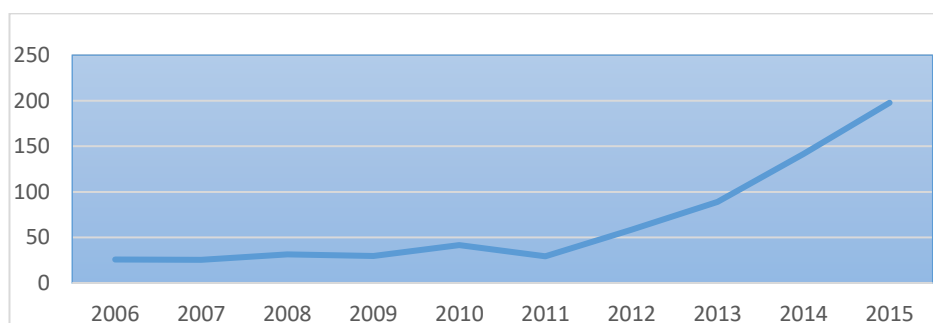
28. Fisheries is one of the growth sectors for the development of Kiribati. The sector has been the main source of revenue in addition to other revenue sources attributed to improved revenue base. Over the last four years, there has been a significant increase in the revenue from fishing licenses (see figure 6).

29. Revenue collected from fishing licenses increased to AUD 197.8 million in 2015 from AUD 29.5 million in 2009. This is an increase of 57.1 per cent. To further increase fisheries and marine revenue, Government recognizes the need to add value to the local fisheries resources and explore seabed minerals.

30. Given the importance of fishing in traditional subsistence and economic activity in Kiribati, small scale fishing activities are supported through innovative programs such as *te Waa n Oo* which is the distribution of fiberglass boat and engines to communities, fishing safety tools at nominal price, and medium size long liner vessels, among others. While the solar powered ice plants have been constructed in the outer islands to support commercialization of fishing activities, such facilities continue to face management and maintenance challenges.

Figure 5

**Total Trends in Fishing License Revenue (AUD Million), 2006–2015**



Source: Ministry of Finance and Economic Development.

31. The only real potential for diversification of the economy for the future rests in Kiribati's huge EEZ and extensive marine resources. The country's exclusive economic zone of some 3.5 million sq. km is among the largest in the world in relation to Kiribati's land area. Fishing fleets from the EU, South Korea, Japan, China, Taiwan, and the United States pay licensing fees to operate in Kiribati's territorial waters. These licenses produce revenue worth U.S. \$20 million to \$35 million annually in the early years of the 2000s. The figures have now jumped fourfold since 2013 following the regional introduction of Vessel Day Scheme by Parties to the Nauru Agreement (PNA) Countries, which includes Kiribati (International Monetary Annual Report 2016).

32. However, Kiribati's exclusive economic zone is huge and is very difficult to police given Kiribati's small land mass and limited resources. Kiribati has only one patrol boat for surveillance of its vast ocean area and loses millions of dollars per year from illegal, unlicensed, and unreported fishing in its exclusive economic zone. Fishing in Kiribati waters depend on climate conditions highlighting the volatility of revenue from licensing fees.

33. After fishing licenses, the next largest source of income is remittances from seamen employed on foreign – mainly German – ships and now employment schemes in New Zealand and Australia. Remittances from Kiribati workers living abroad provide more than AUD\$11 million annually. Historically, the I-Kiribati are notable seafarers, and today about 1,400 I-Kiribati are trained, certified, and active seafarers outside Kiribati on merchant shipping and foreign fishing fleets. Remittances from seafarers are a major source of income for families in the country, and there is a steady annual uptake of young I-Kiribati men to the Kiribati Maritime Training and the Fisheries Training Center. A vital source of revenue for Kiribati is its national sovereign fund the Revenue Equalization Reserve Fund. With prudent management of the fund over the years, the RERF has steadily grown over the years and is worth AUD\$897 million in 2017 (Kiribati Vision in 20 years' time, KV20).

34. A third source of revenue from external sources is outside Overseas Development Assistance amounts to between USD \$30 million to \$40 million per year. The largest donors are Japan, the European Union, Australia, New Zealand, and Taiwan.

35. Tourism is a relatively small, but important domestic sector, attractions include World War II battle sites, game fishing, and ecotourism. Most American tourists only visit Christmas Island in the Line Islands on fishing and diving vacations.

36. The leading export is the coconut product, copra, which accounts for about two-thirds of export revenue; other exports include pet fish, and seaweed. Kiribati's principal trading partners are Australia, New Zealand and Japan.

37. Kiribati's many small islands make transport and communications expensive and difficult. Its location in the middle of the Pacific Ocean puts it far away from the world's main markets and transport routes.

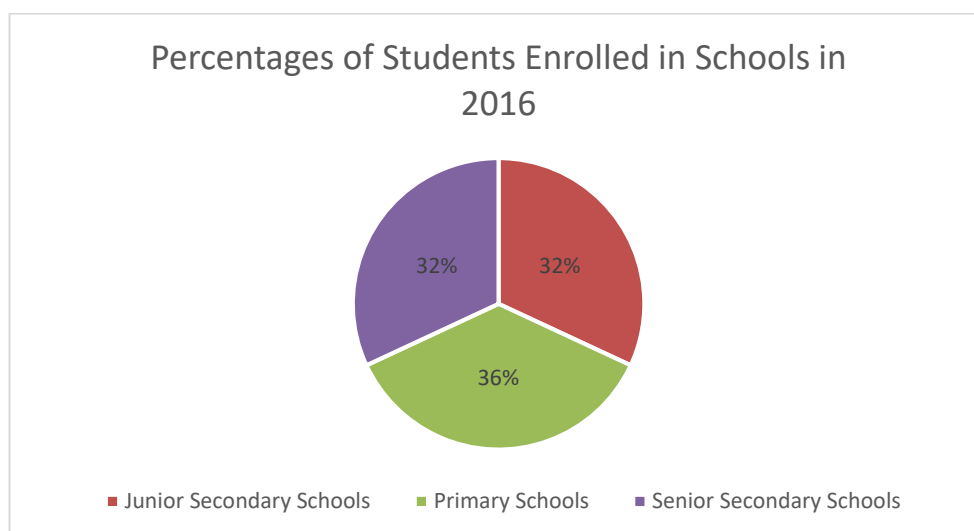
38. Despite the challenge of transportation and communication, Kiribati has improved substantially with the recent introduction of additional new joint air services by the national airline, Air Kiribati, and the Solomon Airlines. Other airlines servicing Kiribati include Air Pacific, Our Airline and Air Marshall Islands providing international air links to the capital of Tarawa. Air Kiribati provides service to all the atolls in the Gilberts using small planes flying from Tarawa. Small ships serve outlying islands, including in the Line Islands, with irregular schedules. A joint venture between Air Pacific and the government of Kiribati operates a flight linking Tarawa to Christmas Island and Honolulu via Nadi, Fiji. Introduction of other services will hopefully bring in competition and subsequently the reduction of travel cost, as currently, travel by air from Tarawa to Nadi has to be the most expensive per kilometer route travelled globally (Kiribati NY Mission Report 2016).

## IX. Education

39. The government of Kiribati provides compulsory and free primary and junior secondary schools to all its citizens. In 2016, the number of students enrolled in primary, junior secondary and senior secondary schools is 28,565 with 52% girls and 48% boys. The graph below will show percentages of enrolled schools in the different level of education. The other graph shows the teacher student ration. Which is in the primary, 1 teacher for 26 students, in junior secondary schools 1 teacher to 16 students and in senior secondary schools 1 teacher to 16 students.

Figure 6

### Students enrolment in schools, 2016



Source: Ministry of Education.

40. The total number of schools in Kiribati is 137 with 95 Primary Schools, 24 Junior Secondary schools and 18 Senior Secondary Schools.

41. The government of Kiribati passed an Education Act in 2013 with a provision that states the compulsory education age for all children in Kiribati, which is 6 to 15 years old. The Act also provides a section that prohibits corporal punishments in schools, pregnant girls are also allowed to continue their study. The Education Inclusive policy was developed in 2013 to include students with disability in the mainstream education. There was a gap when this was practiced hence the development of inclusive education committee by the Kiribati Teachers' College to provide assistant to teachers that lack knowledge or

experience with students with disability. The Ministry of Education's annual budget has for decades taken the largest portion of the overall national budget, which highlights the government's commitment to the rights to quality education. In 2018 revised budget, it was allocated AUD\$41,954,129 while it is being allocated \$42,490,370 for 2019.

## **X. Health**

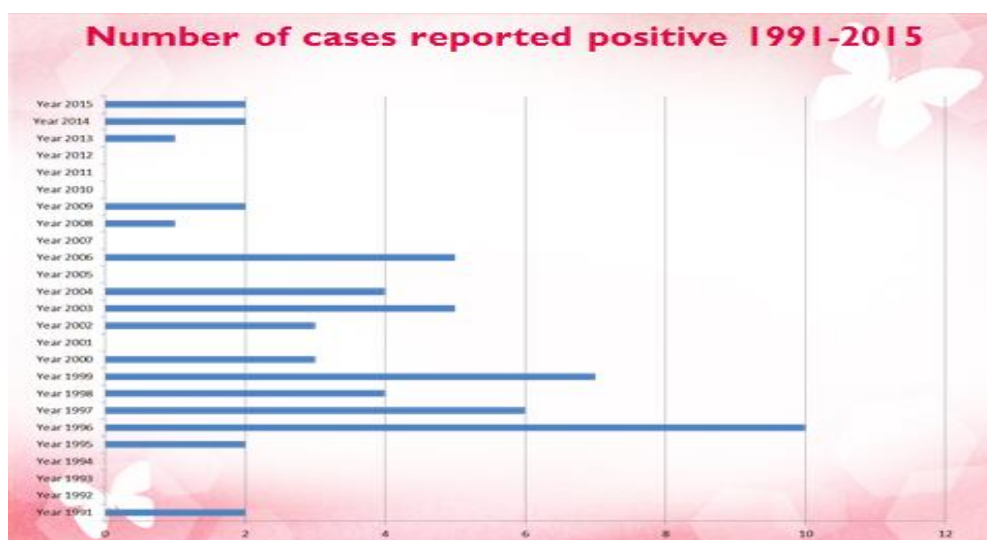
42. Health services are free of charge to all I-Kiribati and working foreigners living in Kiribati. The Ministry of Health and Medical Services (MHMS) operates hospital services, public health services and nursing services from four main hospitals. Two of the hospitals are on South Tarawa and two on the outer islands of North Tabiteuea, which serves the Southern District and the Kiritimati Hospital, which serves the Line and Phoenix groups. Patients requiring specialized assistance that Tungaru Central Hospital cannot provide may be recommended for overseas treatment by the Medical Referral Board.

43. The incidence of Non-Communicable Diseases is likely to rise as the occurrence of people with more than three risk factors has increased from 79% in 2006 to 83.6% in 2015. This may reverse the trend of increasing life expectancy: life expectancy for females increased from 64 years in 1990 to 70 years in 2010. The increase in number and type of NCDs between 2010–2015 is reflected in the data in Table 18. This is attributed to the effects of economic development and modernization with increased reliance on imported processed food particularly rice, noodles and tinned food. With increasing over-crowding, there is less space of planting crops in South Tarawa. Generally, gardening for vegetables involves a lot of hard work since the atoll soil is very poor requiring many supplements. The MHMS strategic plan has included focus on strengthening initiatives to reduce the prevalence of risk factors for NCDs. A 2015 Non-Communicable Disease Steps reported:

- 28.1% of the population were diabetic
- 81.5 % of the population were overweight
- 99% of the population consumed a diet less than five fruits and vegetables per day
- 59% of the population smoked
- 71.8% of men and 49.2% of women drink alcohol

44. The first HIV positive patient was diagnosed in 1991. Since then, the numbers have increased with the highest number of HIV carriers being I-Kiribati who work as merchant seamen. Between 1991–2017, there were 61 cases of HIV of those 35 are male and 26 females. In 2009, Kiribati confirmed 53 HIV/AIDS cases of which with 12 (6%) were young people. The numbers appear to be falling because the success of awareness programs increasing people's use of protective measures. Graph below provides information about the number of HIV cases in Kiribati in the period 1991–2015.

Figure 8  
Number of reported HIV/AIDS cases, 1991–2015



Extracted from: National Health Forum HIV presentation 2015.

45. Maternal health in Kiribati is improving. By 2005, the antenatal care coverage rate (the proportion of pregnant women who had at least one visit) was 100%. In 2010, 98% of births were attended by skilled health personnel from the Ante Natal Clinic (ANC).

46. Common causes of infant mortality and morbidity are perinatal conditions, diarrheal diseases and pneumonia as well as malnutrition, iron and vitamin A deficiency and worm infestation among children, which are increasing. The infant mortality rate improved to an estimated 52/1000 live births in the 2005 census down from 67/1000 in 1995. Despite the overall high total fertility rate, a comparative analysis shows Kiribati with the highest child mortality rate across Pacific Island countries at five years of age. Government has therefore set a target to work towards the reduction of the under-five mortality rates (per 1000 live births) from 59.1% to 49.1% by 2019. Infant and neonatal mortality levels tend to be highest on the outer islands while post neonatal rates are lower in there. This different rate in urban and rural neonatal mortality rates is considered to be due to the accessibility of medical services and the higher prevalence of households in the higher wealth quintiles in urban areas.

Table 4

**Kiribati Estimated Mortality Rates for Under Age 5, Infant and Child, 1991–2011**

|                             | 1990 | 2000    | 2011       | Decrease<br>1990-2011 | 2015 Target |
|-----------------------------|------|---------|------------|-----------------------|-------------|
| U5MR                        | 88   | 65 69   | 47 59 (75) | 47%                   | 29          |
| IMR (<1-5 years)            | 64   | NA 52   | 38 45 (43) | 41%                   | 21          |
| CMR (1-5 year)              | 24   | NA 17.5 | 9 14 (32)  | 63%                   |             |
| IMR as Propotion of<br>U5mr | 72%  | NA      | 81%        | NA                    | NA          |

47. *Kiribati National Mental Health Policy 2016–2020* was launched with a goal of increasing quality mental health services and protecting the human rights of people with psychosocial disabilities. The Ministry of Health takes the second highest portion of the annual government budget.

48. The Ministry of Health has undertaken numerous ongoing promotions relating to child care and the right to health and medical care. With a number of programs including

Public Health Services and Health Promotion, it is allocated AUD\$29,060,313 for the year 2019, as compared to the revised budget of 2018 being \$29,363,847.

## **XI. Security sector**

49. Kiribati does not have a military force therefore; the Kiribati Police Service is responsible for securing the whole nation. The Kiribati Police Service is under the Office of the Beretitenti and is mandated with enforcing laws, preventing crimes, responding to emergencies and providing supporting services whenever required from the public from time to time. Their mission is to work with the community to promote peace, public safety, and reduce crime and violence. The former name of the Kiribati Police Service was the Kiribati Police Force. The overall reflection of the change is to remind people that police officers are Public Servants not Public Serfs – who often use force when enforcing laws. The police officers are being reminded that being a service would require professionalism in serving public demands.

50. The Kiribati Police Service conducts ongoing training in partnership with the Pacific Policing Initiative and the Pacific Regional Policing Initiative Training and the Pacific Community's Regional Rights Resource Team, on domestic violence, handling of domestic violence, human rights and gender issues, and other trainings.

## **B. Constitution, political and legal structure**

### **I. Constitution**

51. By virtue of the Kiribati Act 1979, Kiribati attained independence as an Independent Republic on 12 July 1979. The following Order made provision for a Constitution for Kiribati to come into effect on that day. The Constitution therefore, is the supreme law of the country, which provide the guiding framework of Kiribati including provision for the Legislature, the Head of State, the Executive Government, Judicature, and the Public Service. The Constitution also contains provisions relating to citizenship of Kiribati, the special status of Banaba and the Banabans, and fundamental rights and freedoms of the individual.

52. Individual rights and freedoms are guaranteed under the constitution. The rights protected are the rights to life and liberty, freedom of conscience, expression, association, movement and protection of the law. The state is the projecting absence in the freedom from discrimination provision is any protection from discrimination on the grounds of sex and gender.

53. In the event of dissolution of the legislature on a vote of no confidence, the constitution provides for an interim council of state, composed of the chief justice, the speaker and the chairperson of the Public Service Commission.

### **II. Head of State**

54. Kiribati has a democratic parliamentary system of government with a unicameral parliament. The executive branch consists of the Beretitenti, Vice President and Cabinet. The Beretitenti is the head of government and head of state, as well as chief of the Cabinet. Under the Constitution, the Beretitenti, who is nominated from among the elected legislators, is limited to three, four-year terms. The House of Parliament (Maneaba Ni Maungatabu) has 45 seats; 44 elected by popular vote, and one nominated to represent Banaban communities on Rabi Island; members serve four-year terms.

### **III. Chiefly system**

55. The chiefly ruling system was common in the central and northern Gilberts, while the '*Unimwane*' (*mwaneaba*) system was used in the southern Gilberts. In the chiefly system, one person enjoyed the powers and privileges over his subjects and resources. In pre-colonial times, the central and northern islands of the Gilbert group were ruled by families of *Uea* (high chiefs/kings). The southern islands from Nonouti to Arorae were ruled by councils of *Unimwane* who meet in the *mwaneaba* to discuss and address all kinds

of social, economic and political issues. In this system the *Unimwane*, who consist of the head of each *kainga* (extended family), is the most powerful and sole decision-making body in the community. The decisions made by the *Unimwane* are believed to be the best because they are the outcome of careful deliberation among the oldest, wisest and most experienced members of the community.

56. The chiefly system of the central and northern Gilberts gradually disappeared because it was incompatible with the new Christian belief and democratic form of Government that were introduced into the country in the late 19th and early 20th centuries. On the other hand, the *Unimwane* system, due to its similarity with the western democratic model, was encouraged and has continued to be the dominant traditional form of authority throughout the country.

#### **IV. Government system**

57. Kiribati is committed to the rule of law and administration of justice among those who take refuge under the law. As mentioned above the Constitution and Chapter II in particular guarantees the protection of the people by the law and equality of everyone before the law. Among some of these protections include, a person charged with an offence should be given fair hearing within reasonable time by an independent and impartial court of law. Such person charged with an offence is presumed innocent until proven guilty. The person should also be informed in the language they understand well, and should be given adequate time to defend himself.

58. The Judiciary is the branch of the government which interprets and applies the laws of the country. In addition to the Constitution, the Laws of Kiribati recognizes customary law which is not written, which the courts must take into account when considering specific matters in criminal and civil proceedings.

#### **V. Local Government**

59. The Local Government Act 1984 (amended 2006) provides for the functions of local governments and it is enshrined in the constitution. The Minister of Internal Affairs is responsible for the ministerial oversight of local governments, which comprise 23 island councils and three town councils. Local elections are held every four years.

60. Traditional leadership on the outer islands is provided by the 'Botaki n Unimwane' (the Council of Elders) who discuss in a traditional setting, matters relating to their island. A second layer of leadership is provided by an Island Council on each island, an extension of the arm of Government on the islands with members elected every four years and headed by a Mayor, also elected by people on that particular island.

61. The Councils have powers to make by-laws set the budget and determine the developmental priorities of their island. They are essentially the legal governing authority on the island. Because of this two-tier leadership structure, one traditional and another more modern, it is not common to have difference of views and a clash between the modern and traditional institutions requiring mediation from the central Government.

#### **VI. Courts**

62. Kiribati has three types of courts: Court of Appeal; High Court; and the Magistrates' Courts. Judges and magistrates are all appointed by the Beretitenti. The appointment process, especially within the higher courts, varies with Section 90 of the Constitution, giving the role of the appointment of Court of Appeal judges to the Beretitenti on the advice of the Chief Justice and the Public Service Commission. The High Court is a superior court of record comprising the Chief Justice and a number of other judges as may be prescribed by Section 80 of the Constitution. The magistrates' court (limited jurisdictions) deals with the majority of all civil and criminal matters although the most serious crimes and civil suits take place in the High Court.

63. The constitution makes provision for the court of Appeal and the High Court and gives power to the High Court to supervise subsidiary courts. Subordinate courts are the Magistrate Courts; created by the Magistrates Courts Ordinance. The High Courts has



unlimited jurisdiction including jurisdiction to interpret and determine questions arising under the Constitution while the subordinate courts have limited jurisdiction as set out in the Magistrates Courts Ordinance. The Courts system is based on English Common Law.

64. In addition, there are also examples of domestic legislation that support a wider range of human rights correlated to due process. For example, the Criminal Procedure Code sets out various protections against arbitrary arrest and intrusion into one's private home. Any violation of a human right provided for in the law can be addressed in the Courts.

65. The Privy Council has the sole jurisdiction to hear appeals from any High Court decision involving the interpretation of the Constitution where application to the High Court was made on the basis of contravention of the rights of any Banaban or of the Rabi Council under Chapter III or IX of the Constitution (Kiribati Courts System Information, PacLII).

## VII. Electoral system

66. An Electoral Commission is required under the Constitution to review the make-up of the Maneaba *ni Maungatabu* at intervals of not more than four years. The Commission makes recommendations to Parliament regarding the number of electoral districts, boundaries and number of elected members in each district. Parliament may accept or reject the recommendations as it sees fit. The number of representatives per district is determined by a formula recommended by the Electoral Commission and approved by Parliament.

67. Based on a 2007 recommendation of the Electoral Commission, which was approved by Parliament, it was recommended that an increase to two members would be made each for islands with a population ranging from 1500 to 5000. Islands with populations of 1500 and under would retain one representative while those exceeding 5000 would be eligible for three candidates respectively. Due to population increases, the number of elected representatives increased from 36 prior to the 1982 election, to 39 in 1987, 40 in 1990, 41 in 2003 and 44 in 2007 to date.

68. According to the Constitution and the Election Ordinance of 1977, to become a member of Maneaba *ni Maungatabu* an individual must be a qualified elector, have attained 21 years of age and not hold or act in any office, the functions of which involve the conduct of any election or the compilation or revisions of any electoral register. He/she must neither be a public officer nor owe allegiance to a foreign state or power.

69. Moreover, with the exception of persons certified insane or under a prison sentence of 12 months or more, all citizens of Kiribati who have attained the age of 18 years and have resided within an electoral district for a continuous period of 12 months are entitled to be registered as 'electors' or voters for elections.

70. Under Section 62 of the Constitution overall responsibility for supervising elections in Kiribati is vested in an Electoral Commission consisting of a Chief Electoral Commissioner and not less than two or more than four commissioners, appointed by the Beretitenti on the advice of the Cabinet. The Chief Justice is involved in the supervision of the election of the Beretitenti. Under section 63 of the Constitution. Under Sections 4 of the Elections Ordinance, the carrying out of administrative arrangements and the conduct of elections is vested in the Chief Electoral Office. The Chief Electoral Officer appoints electoral officers and assistant electoral officers for each electoral district. These officers assist in the registration of voters and the actual conduct of the elections.

71. With the recent changes in Ministry portfolios, ministerial oversight of elections is transferred from MIA to the Ministry of Justice (MOJ).

## **Chapter 2**

### **General framework for the promotion and protection of human rights**

#### **C. Kiribati acceptance of international human rights norms**

72. Kiribati joined the United Nations in 1999 during the administration of His Excellency Teburoro Tito. However, prior to joining the United Nations, Kiribati ratified one international human rights convention, which is the Convention on the Rights of a Child (11 December 1995).

73. Kiribati has only ratified three of the international human rights conventions; the Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) on 17 March 2004, and Convention on Rights of Person with Disability (CRPD) 27 September 2013. They have yet to be fully incorporated into Kiribati legislation. Full implementation is still ongoing in slow progress due to delays mainly caused by resource and capacity constraints, amongst other factors. However, efforts have been achieved in some areas to align national laws with CRC, CEDAW and CRPD. The government recently ratified the two Optional Protocols of the CRC on Armed Conflicts (AC) and on the Sale of Children, Child Prostitution and Child Pornography on 16 September 2015. Listed below are the three ratified international human rights conventions and the progression Kiribati has taken in fulfilling its obligations as a member state to the conventions:

- (a) Breast-feeding policy;
- (b). National Youth Policy;
- (c) Children, Young People and Family Welfare Act;
- (d) National Policy on Eliminating Sexual and Gender-Based Violence;
- (e) Inclusive Education Policy;
- (f) Juvenile Justice Act;
- (g) Gender Equality and Women's Development Policy;
- (h) Te Rau n te Mwenga Act (Family Peace Act);
- (i) Inclusive Education Policy;
- (j) Kiribati National Disability Policy;
- (k) Kiribati National Mental Health Policy;
- (l) Kiribati Integrated Environment Policy.

#### **D. Legal framework for the protection of human rights at the national level**

74. The Bill of Rights in the Kiribati Constitution is found in Chapter II. The Constitution recognizes fundamental rights and freedoms of all people regardless of their race, origin, political opinion, color, creed or sex such as protection of right to life; right to personal liberty; protection from slavery and forced labor; protection from inhuman treatment; protection from deprivation of property; protection for privacy of home and other property; protection of freedom of conscience; protection of freedom of expression; protection of freedom of assembly and association; protection of freedom of movement; protection from discrimination on the grounds of race.

75. A Child Protection Legislative Reform project with UNICEF was successfully achieved with the endorsement and enactment of both Children, Young Persons and Family Welfare Act (CYPFWA) in 2013 and Juvenile Justice Act in 2015.

76. The CYPFWA 2013 recognizes a child as being 0 to 18 years of age, and young person are those 14 to 18 years of age. The objectives of the Act are to strengthen families and promote their wellbeing; to support existing roles of parents, families and communities in safeguarding responsibilities; to strengthen positive traditional practices, promote caring attitudes and responses; and to make provision of parental care and protection.

77. The Act outlines principles for Care and Protection of children. guidance and support; for a child to grow up in a nurturing, safe and stable environment. The child should grow up having respect for their culture and tradition with sense of responsibility; in an environment free from discrimination, violence, abuse, neglect and exploitation. The Act acknowledges parents as primary caregivers and any decision or action for the welfare of a child and young person must be made in accordance with the principle that every child deserves to be cared for and protected by their family. Therefore, the participation of family and community is encouraged where necessary.

78. Court intervention or decisions must be appropriate to the age, character, condition, status, disability and special circumstances of a child concerned reaffirming that the rights of a child under the CRC shall be respected and promoted for their safety and best interest.

79. Furthermore, the Juvenile Act 2015 identifies a child as being under 14 years of age, and a young person is 14 years of age but under 18 years old. This Act provides for the set up a Juvenile Court to be a specialized place in hearing of cases involving young offenders along with a place of detention for a child (technically not prison or jail) as appointed by the Minister. The Act provides for the ways the Court should help a child including the use of understandable or basic language of a charge in court; allowing their views to be heard; involving youth officer for report on their background and history, and having presence of parents, families or guardians of a child in court before charge or hearing.

80. For penalties, parents may be fined for damages, costs, or give security for the young offender to be in good behavior. The Act clearly states that no child shall be imprisoned. Young person may be imprisoned if it is the only solution depending on their circumstances but not at the State prison or jail but only at appropriate places of detention appointed by the Minister. The Act further states that imprisonment of a child or young person is treated as a “custody” of the child, not imprisonment as in the normal sense for adult offenders. Other various ways in dealing with young offenders includes; dismissing the case by issue of a license or discharging the case on entering a recognizance (security); committing the child to a care of a relative or a fit person and payment of fine instead of imprisonment/custody as well as release upon entering a bond; and committing the young person into a place of detention not a prison as previously explained.

81. Moreover, under the Education Act 2013 develops and upgrades primary (L1-6) and secondary level (L7-13) education systems and promote compulsory education for ages 6–15 and for level 1–9. Any decision and functions performed in respect of education is to be regarded as a paramount consideration, the principle of the best interest of children. The Act provides for free education for public primary and junior schools and stipulates that parents must enroll their children who are of compulsory age, no refusal of entry/enrolment of children on the basis of sex, religion, race or disability: Parents will be fined \$50 when fail to enroll their child of compulsory age.

82. There is also a provision for healthy and safe school environment, which refers to clean, well maintained, safe, secure, adequate sanitary facilities for both students and staff. In relation to this, it is stipulated that parents must keep their children at home who has contagious disease and they should notify the Principal. Readmission of the children is allowed by producing a medical certificate.

83. Discipline must be non-discriminatory and consistent with the student’s dignity and rights, imposed only after hearing the side of the student to be disciplined, and corporal punishment is abolished with suspension or expulsion as the last resort. School rules must be for the safety, well-being and good conduct of students.

84. Under the Te Rau n te Mwenga Act 2014 (Family Peace Act), protection of a child is applied to any person under 18 years old. The objective of this act is to provide safety and protection and redress to victims from domestic violence, implement effective

programs to ensure the recovery of victims, facilitate enforcement of court order in respect of domestic violence acts, enact the principles of the Convention on the Elimination of all forms of Discrimination Against Women and the Convention on the Right of a Child.

85. It recognizes that domestic violence extends beyond physical, psychological and economic violence, which involves exploitation of any power including any a form of abuse by victimizing children or young people and women in impacting their current well-being and future. The Act also provides for the protection of all family members by expanding the meaning of domestic violence going beyond what was traditionally believed as husband-wife issue only, and include present and past sexual relationships and other family ties. Before the Family Peace Act came into existence, domestic violence was criminalized under the Penal Code but in a broad and unspecific manner. It affirms that domestic violence, in all its forms, is unacceptable and is a crime affecting all sectors of the community and all spheres of life.

86. The Act provides for Protection Orders for the safety of the victim and those close to them. It allows for any member of the community to apply on behalf of the victim in various manners and through several types of communication platforms such as spoken, written, telephone, radio, fax, text, email, etc. The Order is issued by the court once the court is satisfied that there is likelihood of danger on the health, life and well-being of the victim. All actions will be covered appropriately in court including serious behavior in the application made and its effect upon the victim. Protection order varies on 3 categories: Emergency Protection Order, Temporary Protection Order, and Final Order. There is also a Police Safety Order prescribed for in the Act.

87. The Communication Act 2013 protects minors of under 16 years old from being exploited in obscene matter that includes pornographic materials; this prohibits minors or any appearing to be a minor from dealing or engaging with sexual conduct or appears in images (including videos) representing a sexual conduct. Knowingly producing a child pornography through transmission or distribution of media production/publication using videos and photos is a criminal offence. Likewise, it is an offence to procure a child involvement or presence in pornography on a computer or any media device on materials. The penalty in the involvement is \$10,000 fine and 2 years imprisonment.

88. Under the Penal Code Cap 67, offenders of any age under 16 years old are not to be fully eligible of court's conviction under reasonable circumstances. First, the court may make an order to commit the person in the care of any fit person who is willing to undertake the care of the person and order maintenance of the person against parents or guardians. Second, the court may order parent/guardian to enter into a bond in the amount as the court thinks fit to exercise proper care and guardianship of the minor. Third, parents/guardians may be ordered to enter a bond in the court opinion in need of care, protection or control. Lastly, if the crime is penalized with a fine or compensation, the court may order such against parents/guardians to pay of the minor who is under 16 years of age.

89. The abduction of a girl under 18 years old with an intention to have unlawful sexual intercourse with her or take her out of possession and against the will of her both parents or guardians or people having lawful care/charge of her is considered a criminal activity. Defense to the offence is by reasonable cause to believe that the girl is 18 years old or above.

90. Defilement or attempted defilement of a girl under 13 years old does not have the defense of consent. Defilement or attempted defilement of a girl above 13 but under 15 years old required reasonable cause to believe that the girl is of that age or above; however, it still does not allow consent for defense. The same goes for the procurement of or attempt to procure a girl under 18 years old for unlawful sexual intercourse with any person, as a common prostitute or an inmate of a brothel. Whereas an owner or occupier of a premise assists or induces and knowingly suffers a girl under 13 years old to be on their premise for the purpose of having unlawful sexual intercourse with any man, is in violation of the law; defenses to the offense is upon reasonable cause to believe and in fact did believe that the girl was of/above 13 years old. If above 13 but under 15 years old, then the defense only reasonable if the victim (girl) is of/above 15 years old.

91. Children or minors under 15 years old are protected under the law if their own parents or person having custody hire or dispose them with the intent of employing them in prostitution or unlawful sexual intercourse especially by any unlawful means and immoral purposes.

92. Infanticide is considered manslaughter if the woman had not recovered fully from giving birth or suffered lactation from the birth. A person who supplied instrument or drugs to a woman who knows it to cause a miscarriage by a woman with child is liable to 10 years of imprisonment. A child becomes a person capable of being killed if it has completely proceeded in a living state from the body of its mother, while a child destruction is causing a child to die before it has existence independent from the mother. However, terminating pregnancy may be done in good faith and for preserving the life of the mother.

93. Having incestuous relationship with a girl under 13 years old is a criminal act that requires no consent from the girl. The court will divest the convicted person from all authority over the girl under 18 years old.

94. Head of the family who has charge of a child under 18 (amended later by CYPFW) years old who is a member of his household has the responsibility to provide necessities for the child. A master/mistress has the duty to provide food, clothing, and lodging for any servant or apprentice under 18 years old. Cruelty to children of any person who has attained 18 years old and has custody of any child or young person under 18 years old, such cruelties are willful assault, ill-treats, neglects, abandons or exposes or causes them to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause him unnecessary suffering/injury. Suffocation of an infant under 3 years old by an 18-year-old adult under the influence of intoxication (drinking), neglected the infant. Parents or persons having lawful control of a child may administer reasonable punishment to them. Child stealing under 14 years old and abduction of unmarried girl under 15 years old or out of possession of parents or person having lawful care of her.

95. The Prison Ordinance Cap 76, a person of 16 years of age is considered a juvenile, and a young person is between 16 and 18 years of age. Under reasonable precaution, no male prison officer is allowed at female prison. Female prisoners with infant child may be allowed their babies into prison and supplied with clothing and other necessities, provided that when the child has been weaned, if the officer is satisfied that there are relatives/friends who are capable and willing to support the child, the baby is then send to them. For safety and security reasons, female and male prisoners are not allowed to be together in prison. Juvenile and adult prisoners should be separated to avoid bullying and abusive action. Female prisoners should be employed at suitable working condition.

96. Under Births, Deaths and Marriage Registration Ordinance Cap 5 s9(1), any birth within Kiribati is registered by the registrar for the district where the baby was born. Where a child is and no correct or proper information about the child (infant), the birth must be registered where that child was found. It is the duty of the parents, or person present at birth, medical practitioner or midwife in attendance or a person in charge of the child to register the birth and other required information to the registrar. For an unregistered child or one who has charge of the found child must register the birth to the best of his/her knowledge. Registration of the birth is free if not exceed 12 months since the birth or finding of the child. Late registration must go through late registration assessor and may require payment. Extra process may be imposed if penalty found upon late registration. There is a different process for birth registration if a child is born out of wedlock or an illegitimate child whereby a joint request is made in writing and signed by both the mother and the person acknowledging himself to be the father of the child.

97. Under Marriage Ordinance Cap 54, marriage is allowed from the age of 18 to 20 with consent required by both parents or guardians. There is no such consent required when the couple has both reached 21 years of age. Any age less than 18 is not permitted into marriage. Written consent by both parents/guardians is required or if otherwise one of the parents or both are deceased then the consent of the registrar may be taken; otherwise, it is in the best interest of the parties.

98. Custody of children for under 18 years old is taken in courtroom regarding the welfare of the child and the conduct and wishes of both the parents. A person who has the custody of the child must maintain that child with proper care.

99. Native Lands Ordinance Cap 61 refers to the Gilbert and Phoenix islands Lands Code which was declared as the code of laws governing native land rights on all or the different islands in Kiribati. This law provides for rights of children to inherit property from their parents and families.

100. Under Gilbert and Phoenix Islands Lands Code; an owner must not prevent his issues from obtaining their livelihood from his land. The court may set aside a land for the issues and prevent the owner from using the land set aside. This law codifies the different customary practices of the islands in Kiribati.

101. For Nikunau and Arorae only, a child may not be disinherited, and it is immaterial if he/she is neglectful or in marriage without his parent's consent. Other islands, a next of kin may be disinherited or given no share of the owner's property if they neglected the owner (parents).

102. In Section 4, it describes the distribution of estate or gifts inter vivos allowed by court if the issues would not be left in hardship after the distribution, it is not grossly unfair to the issues (person's children/grandchildren), the court may enquire into the opinion, of the children before allowing the distribution. Gift to adopted grandchild is allowed if the adoption has been registered before the court. The adopted child will still receive their inheritance from their real parents regardless of the adoption. An owner's will on disposing his property will be allowed if it complies with the code. If there is no will, the properties will be distributed: if there's more than one spouse, the eldest son of the first spouse will be the administrator or the eldest daughter if there are no sons with the first spouse, the issues of the first spouse will receive the best lands, the remaining spouses will receive equal shares between them. However, if some issues may suffer hardship from the distribution; the court will equally share the property irrespective of which spouse they are. For Beru and Nikumaroro, the eldest son will receive the best land. It's immaterial if he is by the first, second or third spouse – the remaining property will then be distributed equally between the spouses.

103. The eldest son will receive more than his brothers and sisters. Eldest daughter will receive more than her younger sisters. If no sons, the eldest daughter will receive more than young sisters. For Makin, Butaritari, all children receive equal shares. Tamana, Arorae, sons receive more than daughters and the first-born receive no extra. A daughter may receive a fishpond or fish trap if there are no sons if the parents or brothers decided so. If an owner has many fishponds or fish traps, the court may direct a daughter to receive a share but only if the sons have received theirs. Regarding Makin, Butaritari, Nikunau, Tamana, Arorae, sons and daughters will share fishponds and fish traps equally. Kiribati people gets their source of meat from the sea every day therefore fishponds and fish traps are very important for survival. In joined ownership, the court may approve the distribution if a child has received a fair share from join estate. The court may approve a sale of a land, pit or fishpond if the remaining lands of the owner will be sufficient to the children.

104. The Early Childhood Care and Education Bill 2017 provides a regulation and monitoring mechanism of early childhood care and education services in Kiribati. There is currently no legal provision for such services and the Bill will in essence create a formal education framework and program for children under primary school level, particularly for three to under six years old. This Bill complies with the government's obligation under the Putrajaya Declaration on early childhood education. The government has intention to extend compulsory education and eventually free education to younger children – the Bill paves way for this target.

105. CEDAW condemns discrimination against women in all its forms and obligations. The Kiribati Constitution guarantees rights and freedoms of citizens in most areas of requirement under CEDAW. There is an antidiscrimination clause; however, it does not include sex or gender as a protected ground.

106. Sexual assault is a form of gender violence, which is mostly perpetrated against girls and women, and should be prevented and remedied as far as possible through legislative means. Kiribati in its Penal Code has prohibited sexual assault; however, the provision is inadequate in its protection of several forms of sexual violations against girls and women. Other crimes against women and girls that are covered in the Penal Code include incestuous relationships and digital rape. Infanticide is also contained in the Penal Code; however, it reduces a charge of murder to manslaughter, rather than replacing both murder and manslaughter with a separate offence and a corresponding penalty. CEDAW ensures that women have access to health care services including those related to family planning. Abortion is criminalized in Kiribati with a severe penalty of life imprisonment and although abortion can be lawfully carried out to save a mother's life, women do not have access to safe abortion facilities as a right.

107. In relation to marriage, Kiribati is in full compliance with CEDAW as it mandates an equal marriageable age for males and females of 21, it requires the registration of all marriages and it requires the consent of both parents in the marriage of minors, between age 18 and 20 years. However, whilst bigamy is a criminal offence, this law is not applicable to a customary marriage, which is not deemed a valid previous marriage.

108. Furthermore, Kiribati legislation provides for maintenance orders during separation and after divorce for both children and spouses. Maintenance is for 'any person' and therefore potentially includes both women in de facto heterosexual relationships, and women in same-sex relationships, although to date no such same-sex recognition has occurred. In the cases of children of unmarried women, they are specifically and separately provided for in the Land Code with discretionary criteria. Although Kiribati has adopted the recommended standard of the best interests of the child as the paramount consideration in custody disputes after separation and divorce, an unmarried mother automatically loses custody of her child at the age of two years to the father (provided he admits paternity and wishes to have the custody of the child).

109. Besides the abolishment of corporal punishment as mentioned earlier, the Education Act also prohibits principals or bodies responsible for disciplinary matters to take disciplinary actions against a pregnant student. It also prohibits the same for a student who is a parent. This ensures equal treatment consistent with CEDAW.

110. In regards to the labor sector, another new law Employment and Industrial Relations Code 2015, repealed the older ordinance and has anti-discrimination provision that mandates all employers to provide for equal employment opportunities. The prohibition covers discrimination on the grounds of sex, pregnancy, marital status, and sexual orientation or family responsibilities, among other numerous grounds. It also establishes employer's obligation to pay both men and women equal salary for work of equal value. Other anti-discrimination provisions state that an employee must not be required to carry out pregnancy test, among other medical examinations, as a condition of employment or during the course of employment.

111. Furthermore, the Code provides additional measures in relation to night work and orders employers to provide pregnant employees an alternative to night work, no less than 16 weeks of which at least 8 weeks before the employee's expected due date. Among several unlawful reasons for termination in the EIRC 2015, is the prohibition of termination of an employee if the termination relates to or is affected by the fact that the employee was absent from work because of maternity leave taken, or for 12 weeks following maternity leave due to an illness that is certified by a medical practitioner to have been a result of pregnancy or confinement. Moreover, there is a sexual harassment provision that protects both employees and prospective employees and the obligation rests on the employer to ensure the prevention of sexual harassment in the workplace. This means that if an employee is committing sexual harassment, the employer will also be liable unless they can prove that they took all reasonable steps to prevent the conduct.

112. The Constitution prohibits discrimination on several grounds, while it applies to all citizens in general, people with disabilities included, there is no specific mention of disability as protected ground.

113. Disability is widely covered in the Education Act 2013. The Act defines a student with a disability to mean that the student's educational needs has to be tailored to suit the student's individual requirement and for other forms of support and assistance so as to maximize the student's academic and social development. The law provides for the school rules to be applied without discrimination on several bases: student's sex, religion, race, or disability. It also provides for compulsory education and that children with disabilities attaining compulsory school age should not be denied or excluded from free primary and junior secondary education.

114. Another legislation covering disability is the EIRC 2015. It describes disability as physical disability or impairment, physical illness, intellectual or psychological disability or impairment or the presence in the body of organisms capable of causing illness. The Code safeguards employee and potential employees from a wide range of discrimination including, age, state of health, HIV&AIDS status, or disability of the person.

115. The National Infrastructure Standards in the Kiribati National Building Code (KNBC) were updated in 2015 to require all new buildings to meet universal design standards and ensure accessibility to all.

116. Kiribati's judiciary is solely responsible for interpretation and application of the laws passed by the legislature as well as settling disputes between individuals and the state. The Court of Appeal has jurisdiction to hear civil and criminal appeals as of right from any High Court decision on a question of law, and to hear appeals from the High Court exercising appellate jurisdiction in land matters, among others. The High Court appears to have unlimited original jurisdiction in civil and criminal cases, as well as to determine disputes as to the validity of election of any member of the Maneaba ni Maungatabu and as to vacation of seats. The Magistrate Courts have limited jurisdiction but generally deal with the majority of all civil and criminal matters within the limits of the district where they are situated, and that includes having the jurisdiction to deal with most land matters (Kiribati Courts System Information, PacLII).

117. There are a few administrative authorities within the government. The Customer Service and Complaint Centre is a government complaint mechanism existing in the Public Service Office where consumers may lodge their complaint relating to consumer rights violations.

118. A Tribunal established by the Employment and Industrial Relations Code is a mechanism to hear complaints relating to termination of employment and other unsatisfactory decision making in the labor sector.

119. The following are illustrative cases on whether provisions of human rights instruments can be or have been invoked before or directly enforced by the courts, particularly concerning the ratified conventions and constitutional rights and redress.

120. *Republic of Kiribati v Iaokiri*, Criminal Case No.25 of 2004; Pacific Human Rights Law Digest, Vol.1: This case clarified on the status of the Convention on the Rights of the Child in relation to national law. In this case CRC was used to argue against the requirement for corroboration of children's evidence but it was unsuccessful in that the court rejected the argument.

121. The accused was charged with indecent assault on a 15-year-old girl. The issue was that whether the victim's evidence need corroboration which the Prosecution argued was not because that requirement was abolished by the Evidence Act 2003. The court held that because the offence was committed before the EA came into force, the court would apply common law therefore deciding it was dangerous to convict on the uncorroborated evidence of the child and warned itself accordingly. The court further concluded that CRC did not form part of the laws of the country unless it was given the force of law. The CRC was only mentioned in respect of the status of international conventions in relation to domestic legislations but the court did not discuss how corroboration rules might be affected by CRC.

122. *Republic of Kiribati v Timiti & Robuti* High Court Criminal Case 43/97; Pacific Human Rights Law Digest, Vol. 1; In this case, the Convention on the Elimination of All Forms of Discrimination against Women was used to argue that the 'corroboration



warning' should be abolished because it constituted discrimination under CEDAW and the Constitution of Kiribati.

123. The defendants were charged with rape. The court found the victim's evidence credible even though some parts were inconsistent with the police report she gave two days after the incident. On the other hand, the defendants' evidence was found illogical and it was submitted by their counsels that the victim suffered from an illness that caused her to imagine things and disturbed her reasoning, while also arguing that there had been a complete lack of corroboration. On the contrary, Prosecution challenged the corroboration rule because it was a violation of women's rights on the grounds of sex discrimination. The Constitution guarantees the protection of women under the law and the prohibited grounds of discrimination, although it does not specifically mention sex as a prohibited ground of discrimination, should still be interpreted consistent with the principles set out in CEDAW to mean gender discrimination as well.

124. The court convicted the defendants but rejected the alternative arguments brought forward by the prosecution. It held that if the defendants were to be acquitted, it would be because the victim was unable to meet the requirement of corroborated evidence but because she was not believed. There was no need to consider the relevance of the CEDAW because the court believed her anyway.

125. *Attorney General v MBWE* [2006] KICA 3; Pacific Human Rights Law Digest, Vol 2: An appeal was made by the AG against the decision of the High Court to quash an order for the respondent to be imprisoned for six months for contempt of the Magistrate Court of Nikunau Island. The High Court had ordered that the respondent was to be released and the AG to pay him the sum of AUD\$1250 by way of redress. The AG appealed exclusively on that redress order. The respondent was held in custody awaiting trial for several months without access to the main court in the capital island of Tarawa. The AG's main concern was the possibility that people adversely affected by procedural irregularities would rely on this case as a precedent for a right to compensation under the Constitution every time this happens. AG further argued that such redress should be reserved for the most extreme cases, as opposed to those in which people had the opportunity to use other legal options such as the appeal process.

126. The Court of Appeal decided on the issue of whether the respondent's case was rights violation that called for the need for constitutional redress or another non-constitutional remedy, and the appeal was subsequently dismissed. It was held that this was one of those rare cases in which an individual had suffered not only from a fundamental subversion of the rule of law but also the lack of any effective means of overcoming the problem through conventional procedural channels. This case reaffirms that the rights of the accused remain paramount throughout the process of trial. The court must have a high regard for the rights of the accused and ensure they are protected. However, keeping in mind that not all cases involving procedural errors by the state rights violations qualified for constitutional redress as it applies to rare cases such as this one.

127. *Teriaki v Kauongo* [2009] KIHIC 27; Pacific Human Rights Law Digest, Vol 4: The case was heard in the High Court concerning a breach of the constitutional right of movement of the Plaintiff. The plaintiff was the elected mayor of the Maiana Island Council and the first defendants were elders of the Tebau, representatives of a traditional "unimwaane system" group of the island. Following a dispute within the Island Council, Tebau gave the orders that the Council should be dissolved, the councillors resign, and not be eligible for re-election for four years. The plaintiff refused and sought a declaration that the defendants' decision was unlawful and a declaration that they have infringed his constitutional right of free movement when they decided he and his whole family must the island as a penalty when he refused to resign. The elders countered that their decision as elders of Tebau were above every law and had been since time immemorial.

128. One issue was whether Tebau could lawfully dissolve the Island Council and order its members to resign. The second issue was whether the plaintiff could seek redress for breach of his constitutional rights against private individuals? The Constitution of Kiribati and Local Government Act 1984 were considered.

129. The High Court held that Tebau's decision involving the dissolution of the Council and its members was unlawful and held no effect. The customary powers of such a system, although practiced in most islands of Kiribati, were still subject to the supreme law of the country and subsequently any laws made under it, such as the Local Government Act. This Act in particular sets out complete code on matters regarding the establishment of the island councils, the elections, and removal of members. Tebau held the power to nominate people to the council as far as the Local Government Act is concerned, but not to dissolve or force the members to resign, therefore the court held Tebau's actions were not authorised by law and held no legal effect. Furthermore, the court accepted that it had a power to award a remedy against private individuals for violating another person's constitutional rights. But in this case, the court did not make a declaration that the plaintiff's constitutional freedom of movement was infringed by the defendants. It is noted that the remedy of a declaration is discretionary and courts may decline such an order if it is seen as not necessary, and in this case it should have been sufficient for the legal position to be clarified for all concerned.

130. Pro bono legal assistance is provided by the Office of the People's Lawyer under the MOJ. The office provides legal assistance to those who are disadvantaged or unable to afford and access paid representation. It is an independent public office established to provide pro bono services, including representation and advice on land, civil and criminal issues at the magistrates' courts, high court, and the Court of Appeal. There are also private law firms that provide legal representation at a fee. However, currently, there are no regulations governing the fees charged by private lawyers.

131. Human rights institution in Kiribati is yet to be established and there is a hope that the international community will consider providing technical and financial assistance to establish one in the future. Preferably, a Human Rights Commission within the region will be a step in the right direction.

132. At the central government, Ministry of Women, Youth, Sports and Social Affairs (MWYSSA) was established to deliver efficient and effective social services to cater for and support benefit of every citizen with special attention afforded to the most vulnerable members of the community. Under its ministerial oversight is the Social Welfare Division is responsible for child welfare and elderly people's services.

133. There is also the Women Development Division (WDD) under MWYSSA. Established in 2011 under the former Ministry of Internal and Social Affairs, the division is responsible for facilitating and promoting women's development, profile and gender equality in the country by improving the status and livelihoods of women and girls through equal access to rights and resources, opportunities and services, and full participation in social, economic, and political development. WDD is the implementation body for Women and Gender policies, programs and laws, and the coordinating body for Eliminating Sexual and Gender Based Violence programs in Kiribati. They maintain a database and provide reports on Women and Gender to Cabinet and major donors of the program. The division is the host for national events such as International Women's Day, White Ribbon Day and 16 Days of Activism. They provide technical support to Women Organizations, stakeholders, and raising awareness on women and gender issues.

134. The WDD is a core member on the Kiribati National Human Rights Taskforce and it is the leading department in preparing CEDAW state reports.

135. The Social Welfare Division has two branches: Social Benefit Unit and Social Welfare and Counseling. The first unit is responsible for School Fee Support Fund (for orphans or children of disabled parents) and the Elderly Fund (for senior citizens starting from age 65 upwards) schemes.

136. On the other hand, the Social Welfare & Counselling Unit focuses mainly on child protection programs and provides counseling for family issues and the disadvantaged members of the community to break through barriers and mindset of dependency and replace this with the will to self-reliant, building self-esteem and confidence. The unit is responsible for the following activities: providing counselling services to couples, victimized children and other members of a family; Implementing Care and Protection Policy to address child abuse and other family cases; implementation of the Juvenile Justice Act 2015 and related policies; providing educational programs such as Positive Parenting

Styles as well as coordinating pre- and post-marriage programs in cases of child maintenance and custody; assist and guide survivors of domestic violence in need of immediate attention and evacuation or depending on the situation of each case; and the coordination of the UN CRC state reports.

137. The Disability Inclusive Unit (DIU) is the first government office to primarily deal with persons with disability. Established under MWYSSA, the unit works towards raising the profile of people with disabilities by creating an inclusive and barrier-free society, by empowering people with disability and ensuring they have equal opportunities, meaningful participation in the community, and that they fully enjoy their human rights. The unit's objectives include increasing coordination and cooperation between stakeholders, influencing all development programs to be disability inclusive, promoting local understanding of the rights of people with disabilities, and collaborating with the Disabled People Organization (DPO) to improve living experiences of its members. The DIU is the lead unit for preparing CRPD state reports.

138. For 2019 government budget, the Women Development Division is allocated \$184,707, while the Social Welfare Division is granted \$4,841,741. The Youths Division has \$1,89,542 while the NGOs Division is allocated \$78,801. The overall recurrent budget for MWYSSA for 2019 is \$11,619,617 while in 2018 it was allocated the sum of \$7,640,255.

139. The establishment of the Human Rights Division (HRD) was proposed in 2014 as a move to implement recommendations from the first UPR (2010). The Division was initiated under MWYSSA in January 2015. In September 2016, the Division was moved to MOJ. The mother ministry is very much committed to see that this office continues to focus on human rights without any reservations. The Division is comprised of the Principal Human Rights Officer who is the Head of Department, and the Country Focal Officer (CFO) whose placement is stipulated under the memorandum of understanding mutually agreed annually between the Government of Kiribati and the Pacific Community (SPC). The position acts as technical and coordination advisor to SPC's Regional Rights Resource Team (RRRT) in-country programs and is based within the Division. There are also three Human Rights Officers (HROs), and the department is expected to expand further by 2019.

140. The Division is mandated to coordinate implementation, reporting, and monitoring of international obligations under the UPR and UN Human Rights Treaties that Kiribati has ratified. The vision and mission of the Division focus on accomplishing these international obligations by providing government support and technical assistance in respecting, promoting and fulfilling of Human Rights in Kiribati. The Division also aims at the foundation of government, ensuring that good governance and accountability are achieved based on human rights standards and approach at all leadership levels resulting in national development.

141. The HRD is mandated to oversee the completion and submission of the Common Core Document, and future UPR Reports. It collaborates with other responsible departments such as the WDD, the SWD, and the DIU in speeding up the drafting and submission of the CEDAW, CRC, and CRPD state reports respectively.

142. Another core function of the HRD is monitoring government's compliance with the treaty obligations that Kiribati has acceded to, in addition to evaluating the performance of the executive, legislative, and judiciary to translate human rights standards into national policies, laws and practice. The Division also assists in policy advisory in terms of advising and assisting government departments in integrating human rights in their mandated tasks and providing support for institutional reform and capacity building.

143. An important aspect of Human Rights Officers' duties is secretarial responsibility over any undertaking carried out by the National Mechanism for Human Rights Reporting and Implementation, which is known as the Kiribati National Human Rights Task Force (KNHRTF).

144. HROs are also responsible for human rights promotion which are carried out in the form of public awareness activities and community outreach programs. These include

developing wide range of strategies for advocacy, promotion, education, training, public information, communication, research, networking and linkages.

145. The department is committed to addressing human rights related violations and discriminations, which is why it works in close cooperation and coordination with government agencies and civil society in addressing national issues such as gender-based violence and all forms of discrimination.

146. Ministry of Justice is responsible for the sustainable maintenance and improvement of the administration of Justice, with the emphasis on protecting and preserving Human Rights, and implementation and execution of policies that underpins national security. In 2018, it was allocated the sum of AUD\$3,156,851 while it is allocated \$3,403,071 for 2019. Since its inception in 2017 under the MOJ, the Human Rights Division has been allocated relatively low recurrent budget with the total of around AUD\$74547 as of 2018. However, for 2019 the Division has seen an increase and is allocated the sum of \$120,449 which included Operation and Personal Emolument.

147. Kiribati has not subscribed to any regional human rights court or other regional mechanisms as there are none currently existing in the South Pacific region. In addition, the government of Kiribati is supportive of the proposal currently being looked into by the Pacific Islands Forum Secretariat to establish a regional human rights institution.

## **E. Framework within which human rights are promoted at the national level**

148. There is no legal requirement for Members of Parliament (MPs) to endorse or discuss treaty ratifications in Parliament, but there are numerous consultations and dialogue on Human Rights issues with MPs funded by the Pacific Community's Regional Rights Resource Team (SPC RRRT) and other agencies. Kiribati received a recommendation to establish a National Human Rights Institution in the second UPR cycle. To date, Kiribati has not established such institution but there are proposals to set up one and the process will require nationwide consultation and legal auditing. Kiribati only has mechanisms such as the Kiribati National Human Rights Taskforce and the HRD.

149. English versions of the treaties that Kiribati has ratified are shared to communities during outreach and awareness programs to different organizations and communities, and when visiting outer islands in the country. Due to its relatively short text, UDHR is the only other instrument to have been translated but has not been officially published, only distributed when needed during outreach and awareness workshops.

150. Government has worked with SPC RRRT, OHCHR, UNICEF and other agencies in facilitating human rights awareness and trainings with public officials. Human Rights and Domestic Violence training was carried out with lawyers from the Office of People's Lawyer in late 2017. Human rights training with female councillors and mayors through the Female Elected Leaders Training program, an initiative of the Ministry of Internal Affairs funded by SPC RRRT, was held in 2017. There are also a number of magistrates and judges' trainings, enabling them to apply human rights norms and standard in their duties and decision-makings.

151. HRD joined the Domestic Violence and Sexual Offence Units in their capacity building programs with police officers. This program was concluded in 2017 with all outer islands visited including the capital. Part of the training included human rights, gender issues, religion and human rights, Family Peace Act and Police Powers.

152. Similar trainings have been conducted but with more specific objectives for curriculum development officers and curriculum writers. This is to support the incorporation of human rights and other related topics in the newly developed syllabus for years 5 and 6, 7, 8, and 9. More trainings in the education sector is scheduled in 2018 for trainee teachers in the Kiribati Teachers' College to better equip future teachers in delivering human rights to children in schools.

153. The Ministry of Education, through the Curriculum Development and Resource Center, has initiated curriculum reform in 2015 for primary levels year 5 and 6, and secondary levels for years 7 and 8. The reform included incorporation of social citizenship, human rights and related topics as part of Moral Education syllabus.

154. The drafting continues for year 8 and 9, while implementation for lower levels took place as of 2015. To complement the syllabus, there will be teachers training specifically on understanding the newly inserted topics and how to deliver human rights and related topics to children in classrooms. Trainee teachers in the Kiribati Training College and outer island school teachers are targeted for upcoming training programs funded by SPC RRRT.

155. As part of the HRD's annual celebration of International Human Rights Day, an interactive week-long radio program is aired every year starting from 2015 where basic human rights information and human rights services available and issues in the country are identified. Listeners are given a chance to answer questions related to the script.

156. The HRD is also actively involved in MOJ's annual anniversary celebrations since 2017, promoting human rights issues to the general public over the same radio program and at the town square where the annual commemoration usually takes place.

157. In mid-2018, the HRD commenced community outreach programs in South Tarawa districts targeting village communities with the objective to increase awareness of human rights and the corresponding responsibilities among the villagers and underlying principles of the three ratified human rights treaties. These programs are usually interactive with both negative and positive feedback from the communities. The same program is being implemented in the outer islands, with a total of four islands covered by the end of 2018.

158. There are more than 50 registered non-governmental organizations (NGOs) working in several areas, including climate change and the provision of social and development services. NGOs are also involved in the building of schools, providing primary health care, promoting family planning, assisting persons with disabilities, and raising awareness on human rights and climate change, and assisting the government in finding solutions to its devastating impact. The majority of these NGOs have been participating in human rights training, which also include shadow report writing and submission of civil society reports to the UPR and treaty body process.

159. Most active NGOs are disability and women groups. Religious bodies such as Faith Based Organizations have also been involved in capacity building with RRRT SPC around human rights and violence against women as they are influential in changing attitudes and perceptions, especially around violence against women. In 2017, the first dialogue on Human Rights and Faith Based Action to Support the Implementation of the Family Peace Act was conducted with existing churches and faith-based communities in Tarawa. Subsequent dialogues have also taken place covering areas of collaboration including, dedicating a theme for combating family violence from the pulpit on Human Rights Day and Mother's Day annually; considering a theme on ERAW during the annual Gospel Day Service; reviewing and possible reforming of Sunday School and theological colleges curricula to include family violence and human rights; and as well as the establishment of an inter-faith mechanism to coordinate shared initiatives to combat family violence.

160. The government has carried out numerous human rights awareness and trainings in collaboration with SPC RRRT, OHCHR, and other regional agencies. The former Ministry of Internal and Social Affairs carried out life skills training which included awareness on basic human rights. MWYSSA continues to hold youth and community trainings on domestic violence and human rights advocacy. The HRD responds to invitations from government departments to co-facilitate trainings on human rights and gender issues.

161. Even though there is a growing number of public awareness on human rights, Kiribati is still facing big challenges in its journey to fulfilling its international human rights obligations. At the government level, there is a shortage of funding opportunities to conduct a full-scale human rights promotion due to competing priorities in the government. There is the problem on inadequate capacity and technical expertise, thus more capacity building is still needed in the country. Kiribati geographically scattered islands is also a major barrier faced by implementing departments.

162. At community level human rights is perceived to undermine and contradict their customary practices and traditional norms.

## **F. Reporting process at the national level**

163. Under the chairmanship of the Secretary of Justice, the Kiribati National Human Rights Taskforce (KNHRT) is the national mechanism for human rights reporting and follow-up which replaced former ad hoc bodies of CEDAW and CRC Taskforce respectively. It was established by MWYSSA in 2014 and the HRD was given the role of Secretariat to the Taskforce in 2015. This Taskforce is made up of ministry representatives with an advisory role to the government on human rights treaties, Universal Periodic Review and other international human rights obligations.

164. Each member representing their departments are those who have access to relevant information and data and they are able to contribute in providing those said data to assist the Taskforce and the HRD in drafting State and UPR reports, or any other reports required by government in relation to human rights. The members are tasked with verifying draft reports and to approve the final version prior submission to Cabinet for endorsement. They are also tasked with attending to comments and feedbacks from the UN Working Group on the UPR and other ratified conventions.

165. The KNHRT meets regularly to review the report during the drafting process. Data collection phase is often difficult. Further verification is constantly needed across all three treaty reports and oftentimes no response from the relevant stakeholders delayed the process.

166. There are also CSO and NGO stakeholders and there have been several stakeholders' consultation on the three respective reports. Other involvement of the members is budget preparation and securing funds for human rights activities.

167. There is no requirement for MPs to examine State draft reports in Parliament before final submission to treaty bodies, but there are numerous consultations and dialogue on Human Rights issues and capacity building with MPs, starting in 2017 as part of MOJ's Bill Workshop with MPs before each parliament sitting.

168. There is an NGO representative on the task force. Usually, the reports are circulated to relevant NGOs for examination. One such case is the CRPD. The leading unit on CRPD drafting, Disability Inclusive Unit under MWYSSA, held a final consultation on the final compilation with both members of the taskforce and the DPOs. The consultation collected many positive feedbacks and additional inputs to the draft report.

169. The local disabled person's organization, Te Toa Matoa (TTM), has taken the initiative to translate the full text of CRPD into the Kiribati Language. The translated text will be undergoing review before being published.

170. There has been no public debate on the report or translation of the reports as of yet. However, copies of the endorsed reports are always available to the public upon request.

171. The national legislature, *Maneaba ni Maungatabu*, has no legal requirement to debate the reports before they are submitted, and there is no legal obligation for them to review the reports during the course of the drafting process. However, MPs are made aware of such reports during MPs dialogues and consultations on human rights.

172. The Cabinet, consisting of the Beretitenti and Ministers, will have the final say on the reports before submission. They will either endorse it prior submission to the Committee, or reject the report for further review and redrafting.

## **G. Other related human rights information**

173. Kiribati became a member of the Commonwealth in 1979, immediately following its joining the United Nations as the 139th member. Kiribati is also a founding member of the Pacific Islands Forum and a member of several regional organizations such as the

Secretariat of the Pacific Community (SPC), Secretariat of the Pacific Regional Environmental Programme (SPREP), and Secretariat of the Pacific Geosciences Commission (SOPGC).

174. Kiribati adheres to the United Nations Charter and the Universal Declaration on Human Rights. It has therefore ratified three international human rights treaties as mentioned in the above paragraphs.

175. With the government's reporting obligations under the ratified treaties, the HRD assists with the coordination of these treaty reports.

176. Furthermore, recognizing the development challenge, the Kiribati Government firmly took ownership of the SDGs in the formulation of its national plan for the period 2016–2019 the Kiribati Development Plan (KDP). All SDG targets and indicators that have been reviewed and assessed for relevance to Kiribati's context, including initial country conditions in each Key Priority Area (KPA) and accounting for possible progress in the four-year timeframe of the Plan. The KDP 2016–2019 takes into account various international initiatives that the Government of Kiribati has assented to.

177. UN special rapporteur on water and sanitation development has examined the impacts of climate change on the enjoyment of the human rights to water and sanitation. The findings highlighted the challenges of access to water and sanitation, which are being exacerbated by increasing water scarcity, saltwater intrusions, sea level rise and frequency of extreme weather events. The report stated that for most people living in Kiribati, the effects of climate change are no longer a threat but a reality for people's everyday life.

178. Kiribati became a member and a Party to the UNFCCC (United Nations Framework Convention on Climate Change) in 1995 after ratifying the Convention. It also had signed and ratified the Kyoto Protocol in 2000 along with the Doha Amendment for the second Commitment period to the Kyoto Protocol. The Disaster Risk Management Unit under the Office of the Beretitenti engages with the Paris Agreement to ensure that the positions/needs are captured so it retrofits their priorities as a Pacific region and for Kiribati.

179. Moreover, after the adoption of the Paris Agreement in 2015, Kiribati became a member in 2016 through ratifying the agreement. However, prior to this Kiribati has been represented in the various negotiations leading up to the formulation of the Paris Agreement. At the upcoming COP24, the Rule Book or Paris Agreement Work Program will be finalized based on intensive negotiations to ensure that all country's inputs and positions are reflected. Therefore, it is an on-going activity.

## **Chapter 3**

### **Information on non-discrimination and equality and effective remedies**

#### **A. Equality and non-discrimination**

180. The national law of Kiribati known as the Constitution which is the supreme law currently emphasized equality to citizens before the law. The Constitution of Kiribati does not directly state that everyone is equal before the law. It is a matter of understanding that the legal principle in which every Kiribati citizens has the rights as stipulated in Chapter 2 of the Constitution. Equality is obviously appeared from the word "RIGHTS" to the extent that all citizens are equal. The national law governs everyone.

181. The Constitution of Kiribati under section 15 (3) provide a description of discrimination and its application to ensure that unfair discrimination is prohibited in Kiribati. Under this section it is clearly identified, that citizens should understand their rights to be treated equally and not to be either directly or indirectly discriminated.

182. In Kiribati, the law for instance have had taken action to prevent discrimination at the first place. Cultural beliefs in Kiribati is opposing the promotion of equality by "man

power dominance”. For instance, violence against women has been perceived as an acceptable or even deserved form of discipline for women who do not fulfill their prescribed gender roles. Culture and especially reference to Kiribati as being a patriarchal society, was often cited as a barrier to achieving women’s empowerment.

183. Kiribati took a major step towards incorporating the CRC into local legislation by enacting the Children, Young Persons and Family Welfare Act 2013. This landmark act, according to a UNICEF report, provides a legal foundation for a comprehensive child protection system in Kiribati by establishing structures, processes and systems through which protection can be undertaken. Furthermore, the newly enacted Education Act prohibits corporal punishment in all schools, and compliments the above legislation in strengthening child protection.

184. Kiribati has taken significant steps towards improving women’s rights and eliminating of discrimination against women. The landmark Te Rau n Te Mwenga Act 2014 is to halt domestic violence and to respond to those who try to take away those rights. The Act provides the safety and protection of all persons, support and redress for all victims, programme for victims of domestic violence.

185. In relation to the welfare of persons with disabilities, the government of Kiribati ratified the CRPD in 2013 and is currently drafting a national disability policy. The policy provides a framework to guide all stakeholders and all communities to improve the lives of persons with disabilities, dismantle the barriers in society, and raise awareness about disability rights and needs. Kiribati is implementing its disability inclusive policy including through improved access to and quality of disability specific services. Total funding of \$4.4million was allocated for the program, which had five outcome areas:

- Government of Kiribati policy and program are coordinated, led and monitored by MWYSSA and increasing compliant with CRPD in relation to disability services.
- Strengthened DPO and deeper community awareness of and support for the right of women, men, boys, and girls with disability to access services.
- Increase access to public infrastructure.
- Increase provision and quality of disability inclusive education services.
- Increase provision and quality of disability specific health and rehabilitation services and assistive technologies.



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