

KIRIBATI 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Kiribati is a constitutional multiparty republic. The president exercises executive authority and is popularly elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. Observers considered parliamentary elections held in 2011 to have been generally free and fair. Citizens re-elected Anote Tong of the Boutokaan Te Koaua Party president in 2012. Civilian authorities maintained effective control over the security forces.

Violence and discrimination against women and child abuse were the main human rights problems.

There were concerns regarding media independence, a lack of services and facilities for persons with disabilities, and allegations of commercial sexual exploitation of children.

Impunity was not an issue, as there were no reports government officials committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions.

Prison and Detention Center Conditions

Prison conditions generally met international standards, but the Betio and Kiritimati prisons were overcrowded.

Physical Conditions: Prisons were somewhat overcrowded, holding 152 inmates in facilities intended for 125. One female prisoner was kept at a separate facility. Convicted prisoners and pretrial detainees not granted bail were held together. Juvenile offenders age 17-18 were also held with the general prison population, but children under 16 years usually were not incarcerated. Juveniles age 16-17 generally were detained no longer than one month, although for more serious offenses, such as murder, they might be held in custody for more than a month.

There were no deaths reported attributed to prison conditions. Prisoners had access to potable water and sufficient food. Sanitation and medical care were adequate.

Administration: Lack of resources and staff contributed to sub-standard recordkeeping. Community service-based sentences provided alternatives to incarceration for juvenile offenders. The country does not have an ombudsman for prisoners and detainees. Although authorities permitted complaints by inmates about inhumane conditions, the complaints were subject to censorship. No such complaints were received during the year, nor were any investigations undertaken. The government monitored prison conditions.

Independent Monitoring: The government permitted monitoring visits by independent human rights observers.

Improvements: The government worked with UN agencies to strengthen the juvenile justice system. In August, parliament passed the Juvenile Justice law, setting standards for the youth justice system, including the establishment of a new youth court and a separate detention facility for juveniles.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Police and Prisons Service, under the Office of the President, maintains internal security. The country has no military force. Civilian authorities maintained effective control over police, and the government has effective mechanisms to investigate and punish police abuse and corruption. There were no reports of impunity involving the security forces.

Arrest Procedures and Treatment of Detainees

In some cases magistrates issued warrants before an arrest was made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. Officials generally respected these requirements. Authorities released many individuals charged with minor offenses on their own recognizance pending trial, and bail was granted routinely for many offenses. The law requires that arrested individuals be informed of their rights, these include the right to legal counsel during questioning and the right not to incriminate oneself, and the charges against them. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Detainees received prompt access to legal counsel. Arrested persons and others who needed legal advice but did not have sufficient means to pay for a lawyer received free counsel from the Office of the People's Lawyer. Suspects were not held incommunicado or under house arrest.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. Procedural safeguards include the presumption of innocence and provision of adequate time and facilities to prepare a defense. Defendants cannot be compelled to testify or confess guilt. They also have the right to communicate with an attorney of their choice, present witnesses and evidence, confront witnesses against them, access government-held evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. These rights apply to all suspects.

Extrajudicial, traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. Nonetheless, the incidence of communal justice continued to decline under pressure from the codified national law.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights.

Press and Media Freedoms: Although there were no government restrictions, there were some concerns about the lack of local independent media and lack of transparency of the registration process for media organizations. Most locally based news media were owned and operated by either the government's Broadcasting and Publications Authority or a media company owned by a member of parliament. The regional SKY Pacific paid-television channel provided news coverage in the capital, South Tarawa.

The law requires registration of newspapers, and permits the government to cancel registrations or fine newspapers for certain offenses.

A government journalist was dismissed in April, allegedly for unbalanced reporting on a controversial death penalty bill.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. While generally available on South Tarawa, public access to the internet elsewhere in the country was limited by lack of infrastructure. According to the World Bank, about 12 percent of the population used the internet in 2014.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. Although the law prohibits government restrictions on citizens' freedom of movement, it does not restrict such actions by traditional village councils.

Exile: The law provides for the forced expulsion from the country of a convicted person if "in the interests of defense, public safety, order, morality, health, or environmental conservation." The government did not use forced exile.

Protection of Refugees

Access to Asylum: The law does not specifically provide for granting asylum or refugee status, but the principal immigration officer is given wide discretionary authority to permit foreigners to stay in the country. The government has not

established a formal system for providing protection to refugees. During the year there were no applications for asylum or refugee status.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and periodic fair elections based on universal and equal suffrage, and citizens exercised that ability.

Elections and Political Participation

Recent Elections: The legislature has 45 members. Of that number, 43 are elected by universal adult suffrage; the Rabi Island Council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects one; and the attorney general is an ex officio member. Parliamentary elections held in 2011 were considered generally free and fair.

Participation of Women and Minorities: Women's political participation, although not hindered by law, was low. There were four women in the elected 44-member legislature, three of whom also served as cabinet ministers. The vice president, Teima Onorio, is a woman. Several permanent secretaries and deputy secretaries were women.

The president and several members of the legislature were of mixed ancestry.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not always implement the law effectively. Government officials sometimes engaged in corrupt practices with impunity.

Corruption: Nepotism and corruption based on tribal and church ties was prevalent. The auditor general is responsible for oversight of government, but lacked sufficient resources. Investigations were often inconclusive, and findings of misappropriations and unaccounted for funds were generally ignored.

The government, with the help of multilateral partners, continued to upgrade its fiscal information systems and revise the public finance regulation to strengthen its budget execution, reporting, and auditing.

Financial Disclosure: No laws, regulations, or codes of conduct require income and asset disclosure by appointed or elected officials.

Public Access to Information: No law specifically provides for citizen or media access to government information. The government provided copies of its annual budget documents to the public on request. The poor telecommunications infrastructure also affected the government's ability to respond to requests for information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The government established a Human Rights Taskforce and Human Rights Unit in the Ministry of Women, Youth, and Social Affairs in 2014.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, national origin, or color, and the government observed these prohibitions; however, only native I-Kiribati may own land. The law prohibits gender discrimination only in employment, but due mainly to limited resources the government did not effectively enforce this provision during the year.

Women

Rape and Domestic Violence: Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. Rape, including spousal rape, is a crime, with a maximum penalty of life in prison, but sentences typically were much shorter. In 2014, authorities passed the Te Rau N Te Mwenga Act (also referred to as the Family Peace Act), criminalizing domestic violence. The government, in partnership with the Secretariat of the Pacific Community Regional Rights Resource Team, facilitated training for police, public prosecutors, health, social welfare, education, and nongovernmental organization (NGO) workers to implement this legislation

effectively. The law provides for penalties of up to six months in prison for common assault and up to five years in prison for assault involving bodily harm

While cultural taboos on reporting rape and domestic abuse and police attitudes encouraging reconciliation rather than prosecution still exist, prosecutions for these crimes occurred during the year.

The government continued implementing the Eliminating Sexual and Gender-Based Violence Policy through a 10-year national action plan launched in 2011. The police force has a Domestic Violence and Sexual Offenses Unit, and unit officers participated in a capacity-building program, funded by a foreign government, that provided training in handling such cases. Police also ran a 24-hour hotline for victims of sexual violence and domestic abuse. The Catholic Church operated a shelter for women and children in Tarawa. The Ministry of Health operated a clinic in the main hospital in Tarawa for victims of domestic violence and sexual offenses. The NGO Kiribati Family Health Association (KFHA) also provided domestic violence victims with counselling and referral services.

Sexual Harassment: The law does not prohibit sexual harassment. Information presented in workshops conducted in 2010 in connection with efforts to develop a national policy on gender equality indicated that sexual harassment was more widespread than previously thought. The Ministry of Labor was implementing a three-year Gender Access and Equality Plan to promote a zero-tolerance policy for sexual harassment in workplaces and training institutes.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children; to manage their reproductive health; and to have access to the information and means to do so, free from discrimination, coercion, and violence. Access to contraception, as well as prenatal, obstetric, and postnatal care, was available from public health hospitals and centers. The KFHA also offered mobile reproductive health clinical services, undertook public campaigns, and provided information and counseling on family planning, although cultural and religious influences remained barriers to access and utilization of services. In 2013 the UN Population Fund estimated that the maternal mortality ratio was 130. According to UN Children's Fund (UNICEF) indicators, an estimated 22 percent of married women ages 15 to 49 used some form of contraception, and skilled personnel (doctors, nurses, or midwives) attended 80 percent of births.

Discrimination: The law prohibits discrimination on the basis of gender in employment but not in other areas (see section 7.d. for detail). Women have equal access to education. Property ownership rights are generally the same for men and women, but land inheritance laws are patrilineal, and sons often inherited more land than daughters.

The citizenship law contains some discriminatory provisions. For example, the foreign wife of a male citizen acquires citizenship automatically through the marriage, but the foreign husband of a female citizen does not.

Children

Birth Registration: Citizenship is derived by birth in the country, unless the child acquires the citizenship of another country at birth through a non-citizen parent. Citizenship also is derived through one's father. The law requires registration of births within 10 days, but this time limit was not always observed. The government, with support from UNICEF, set up a birth registry at the main hospital on Tarawa in 2014.

Child Abuse: Child abuse, both physical and occasionally sexual, and often exacerbated by chronic alcohol abuse, continued to be a serious problem. The Children, Young People, and Family Welfare Law covers the care and protection of minors and established a Ministry of Women, Youth, and Social Affairs to implement the law's mandates.

Early and Forced Marriage: The legal minimum age for marriage is 21, or 17 with the permission of a parent or guardian. According to Family Planning International, the median age of marriage for women was 20. The 2010 census estimated 9 percent of persons between the ages of 14 and 19 were married.

Sexual Exploitation of Children: The law prohibits the procurement of any girl under 18 for the purpose of prostitution, and prohibits using a child of either gender under 15 for prostitution. In both cases the maximum penalty is two years in prison. The minimum age for consensual sex is 15. Sexual relations with a girl under 13 carries a maximum penalty of life imprisonment, and sexual relations with a girl ages 13 to 14 carries a maximum penalty of five years in prison. The victim's consent is not a permissible defense under either provision; however, in the latter case, reasonable belief the victim was 15 or older is a permissible defense. While this provision applies only to female children, male-on-male sexual exploitation of children can be prosecuted under provisions against

“unnatural” offenses (which cover both male and female persons) and acts of “gross indecency between males,” with maximum penalties of 14 and five years in prison, respectively. The penal code has no specific provision concerning child pornography.

Credible local government and nongovernment sources confirmed a small number of underage girls were among groups of women alleged to be engaged in commercial sex at bars frequented by crewmembers from foreign fishing vessels. The girls reportedly received cash, alcohol, food, or goods in exchange for sexual services. The Children, Young People, and Family Welfare Act of 2013 supports children at risk for exploitation.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There is no permanent Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities, including in employment, education, air travel and other transportation, access to health care, or the provision of other state services. Public infrastructure and essential services were rudimentary and did not provide for the specific needs of persons with disabilities. Accessibility of buildings, communications, and information for persons with disabilities is not mandated, and there were no specific accommodations for persons with disabilities.

Two NGOs were the principal supports and advocates for persons with disabilities: Te Toa Matoa (Disabled Persons’ Organization), and the School for the Disabled. The school offered special elementary education classes and programs for children with disabilities from ages six to 14. Aside from this school, most children with

disabilities did not have access to education. A small number of children with disabilities pursued schooling in Fiji. In line with the government's inclusive education program, seven schools in the outer islands, the teacher's college, and the Ministry of Education headquarters were refurbished with foreign government assistance and made accessible for children and staff with physical disabilities. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Physiotherapy services also were offered at the hospital for persons with physical disabilities.

The Ministry of Women, Youth, and Social Welfare is responsible for protecting the rights of persons with disabilities.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Consensual sexual conduct between men is illegal, with a maximum penalty of five to 14 years' imprisonment depending on the nature of the offense. There were no reports of prosecutions directed at lesbian, gay, bisexual, transgender, and intersex persons under these provisions.

No law specifically prohibits discrimination on the basis of sexual orientation or gender identity. There were no reports of societal discrimination or violence based on sexual orientation or gender identity.

HIV and AIDS Social Stigma

There were no reports of societal discrimination or violence against persons with HIV/AIDS. A government-run HIV/AIDS taskforce coordinated outreach and educational activities concerning HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers can form and join independent unions, conduct legal strikes, and bargain collectively. The government did not control or restrict union activities; however, unions must register with the government. The law protects workers against acts of anti-union discrimination at the time of hiring but not during the employment relationship, and does not specifically provide for reinstatement of workers fired for union activity.

The law allows for compulsory arbitration in a wider range of cases than generally allowed under international standards. Similarly the definition of “essential services,” in which the right to strike is limited, includes a broader range of sectors than international practice. The penalty for unlawful strikes in both essential and non-essential sectors includes imprisonment of up to 12 months and a fine of up to A\$1,000 (\$750). These penalties were sufficient to deter violations. There were no reports of lengthy delays or appeal processes during dispute resolution.

The government’s Public Service Office sets wages in the public sector, which makes up approximately half the employment in the formal economy. In a few statutory bodies and government-owned companies, however, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers.

The two largest public sector trade unions are the Kiribati Nurses Association and the Kiribati Union of Teachers. Nurses and teachers constituted approximately 30 to 40 percent of total union membership. In keeping with tradition, negotiations generally were non-confrontational. There were no known collective bargaining agreements during the year and no instances reported in which the right to strike was denied. There were no reports of antiunion discrimination.

The government effectively enforced applicable labor laws. Penalties for violations ranging up to a A\$1,000 (\$750) fine and up to six months’ imprisonment were sufficient to deter violations.

b. Prohibition of Forced or Compulsory Labor

The constitution and laws prohibit forced or compulsory labor, with some exceptions regarding times of emergency or “calamity.” The law prescribes penalties of up to A\$250,000 (\$187,500) in fines and up to life imprisonment for anyone found guilty of the offense, penalties that are considered sufficiently stringent to deter the practice. There were no reports that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under 14 and sets the minimum age for hazardous work at 18. Children through age 15 are prohibited from industrial employment and employment in mines and aboard ships. There are no additional laws regarding working hours or occupations for children between 16 and 18.

Parliament passed the Children, Young Person and Family Welfare law to enhance the care and protection of children in 2013; the government is working to implement the law. Officers from the Ministry of Labor and Human Resources Development generally enforced child labor laws effectively. The law penalizes employers with an A\$50 (\$38) fine for violations. The ministry and local civil society conducted outreach efforts and enforced laws on compulsory education.

Children rarely were employed outside the informal economy. Within the informal economy, observers noted a decline in the number of children in street vending in Tarawa. There were allegations of girls involved in transactional sex with foreign fishing crews (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations do not prohibit discrimination regarding race, color, sex, gender, disability, language, sexual orientation, gender identity, HIV-positive status or other communicable diseases, or social status, and these persons sometimes experienced discriminatory practices. Discrimination in employment and wages occurred with respect to women, although the law does require equal pay for equal work. The traditional culture, in which men are dominant, in some cases impeded a more active role for women in the economy. Women filled many government office and teaching positions. According to the 2010 census, 43 percent of the labor force were women (primarily teachers and nurses).

e. Acceptable Conditions of Work

The law provides for a minimum wage at the discretion of the Ministry of Labor and Human Resources Development, but the ministry never established a minimum wage. The ministry estimated the “non-legislated” minimum to be between A\$1.60 and A\$1.70 (\$1.20 and \$1.28) per hour. This wage provided a marginally decent standard of living for a worker and family, but most of the working population worked in the subsistence economy. There is no recent data on the poverty level.

There is no legislatively prescribed workweek. Workers in the public sector worked 36.25 hours per week, with overtime pay for additional hours. There is no law or regulation governing working hours in the private sector, but private sector

employers usually followed public sector practice. No law or regulation governs the amount of overtime an employee may work, but there were no known reports of excessive compulsory overtime. The law provides for the possibility of paid holidays but leaves the determination up to individual employment contracts, which are then submitted to the Ministry of Labor and Human Resources Development for documentation.

Employment laws provide rudimentary health and safety standards for the workplace, which the Ministry of Labor and Human Resources Development is responsible for enforcing. Employers are liable for the expenses of workers injured on the job. By law workers may remove themselves from a situation that endangers their health without threat to their employment.

A lack of qualified personnel hampered the government's ability to enforce employment laws. The ministry had seven labor officers responsible for performing labor inspections, six based in Tarawa and one on Kiritimati Island. The ministry conducted labor inspections and did not receive any work-related injury complaints during the year. The government did not provide any information on penalties for non-compliance.