

# **KIRIBATI 2012 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 October 2011 to be generally free and fair. Citizens reelected Anote Tong of the Boutokaan Te Koaua party president in January. Security forces reported to civilian authorities.

Violence and discrimination against women, child abuse, and commercial sexual exploitation of children were the main human rights problems during the year.

Obstacles encountered by a would-be independent newspaper raised questions about freedom of speech and press.

Impunity was not an issue, as there were no reports that 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 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 one of the four prison centers, located in Kiritimati, was overcrowded during the year. The government permitted visits by independent human rights observers.

Physical Conditions: As of October the prison system held 118 inmates. There were 110 convicted prisoners, including 107 men and three women, and eight pretrial detainees, all men. There were no juveniles (defined as those under age 18). Total capacity of the prison system was 125 inmates. The prison in Kiritimati was designed to hold up to 25 inmates, but as of October there were 32. There was no separate facility for juvenile offenders, but children under age 16 usually were not incarcerated. Juveniles ages 16 to 17 generally may be detained no longer than one month in the adult facility; however, for more serious offenses, such as murder, juveniles over age 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees accused of serious offenses who did not meet bail were held with convicted prisoners. Officials normally released persons on their own recognizance pending trial those charged with minor offenses. During the year there were no deaths attributable to prison conditions reported in the prisons. Prisoners had access to potable water.

Administration: Prisoners and detainees had access to visitors and were permitted religious observance. Although authorities permit complaints by inmates about inhumane conditions, the complaints are subject to censorship. There were no such complaints received, nor investigations undertaken, during the year. The government monitors prison conditions. The country does not have any ombudsman who can serve on behalf of prisoners and detainees. There were no specific steps taken during the year to improve recordkeeping or use alternatives to incarceration for nonviolent offenders.

Monitoring: The government permits monitoring visits by independent human rights observers. During the year the International Committee of the Red Cross visited prisons in the capital, Tarawa.

#### **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 force, under the Office of the President, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the 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 during the year.

### **Arrest Procedures and Treatment While in Detention**

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 in practice. Many individuals were released 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, which include the right to legal counsel during questioning and the right not to incriminate oneself. 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 were allowed prompt access to legal counsel. Public defenders, known as “people’s lawyers,” were available free of charge for arrested persons and others who needed legal advice.

### **e. Denial of Fair Public Trial**

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

### **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 until proven guilty. Accused persons must be informed promptly of the charges and provided adequate time and facilities to prepare a defense. They cannot be compelled to testify or confess guilt. Defendants also have the right to 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.

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**

There is an independent and impartial judiciary in civil matters, and 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 in practice.

## **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 in practice. During the year, however, the government did not act on the registration application of a new independent newspaper, obliging it to cease publication.

Freedom of Press: 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 either by the government's Broadcasting and Publications Authority or a media company owned by a member of parliament.

The law requires registration of newspapers. In March the government ordered the closure of a new privately owned newspaper, the *Kiribati Independent*, pending completion of its registration with the Ministry of Communications. The *Independent's* online news service, however, was not affected. In June the ministry lodged a complaint with police against the newspaper after it resumed publication without permission, and the newspaper again suspended publication. At the time the *Independent's* registration application had been pending with the ministry for more than five months. The newspaper's publishers asserted they had

the right to continue publication pending registration. Several international media rights organizations criticized the ministry's delay as unreasonable and possibly politically motivated.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. While generally available on South Tarawa, public access to the Internet elsewhere in the country was limited by lack of infrastructure. According to the International Telecommunication Union, approximately 10 percent of the population used the Internet in 2011.

### **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 in practice.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

#### **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 in practice. 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 country's laws do not specifically provide for the granting of 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. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

### **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 October 2011 were considered generally free and fair.

Participation of Women and Minorities: There were four women in the legislature, two of whom were also ministers in the 12-member cabinet. 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 official corruption, but the government did not always implement the law effectively. Government officials have sometimes engaged in corrupt practices with impunity, but there were no specific reports of government corruption during the year.

Nepotism, based on tribal, church, and family ties, was prevalent. No laws, regulations, or codes of conduct require income and asset disclosure by appointed or elected officials. The auditor general is responsible for oversight of government

expenditures. In reality the auditor general lacked sufficient resources, and findings of misappropriations and unaccounted for funds were generally ignored, or the investigations were inconclusive.

Together with Nauru and Tuvalu, the country participated in a subregional audit support program, an initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

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. In practice the poor telecommunications infrastructure also affected the government's ability to respond to individual 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.

### **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 in practice; however, only native I-Kiribati may own land.

#### **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 imprisonment, but sentences typically were much shorter.

The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. The law provides for penalties of up to six months' imprisonment for common assault and up to five years' imprisonment for assault involving bodily harm. While cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution still exist, prosecutions for rape and domestic assault made up the

majority of cases processed by the public prosecutor's office during the year. As of September, the office received 45 cases of indecent assault, rape, and other violence against women. Six of these cases were prosecuted and resulted in convictions. The remainder were either pending in court, returned for insufficient evidence, or pending further action by the Prosecutor's Office.

During the year the government launched its national action plan for the elimination of gender-based violence, following the results of a 2009 study on the prevalence of domestic violence against women. 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. The 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.

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.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Access to contraception, as well as prenatal, obstetric, and postnatal care, was available from public health hospitals and centers. According to the World Health Organization, maternal mortality was estimated to be 158 deaths per 100,000 live births based on data from the 2005 census. Lack of adequate medical facilities and competent medical personnel, and the general prevalence of disease and unsanitary conditions in densely populated areas, were the main reasons for the high rate. A UN Population Fund assessment in 2005 on family planning and emergency obstetrics suggested that skilled health personnel attended approximately 63 percent of live births. According to indicators published by the Population Reference Bureau, an estimated 36 percent of married women ages 15 to 49 used some form of contraception, and an estimated 31 percent used modern contraceptive methods.

Discrimination: The law prohibits discrimination on the basis of gender in employment but not in other areas. 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 most recent census in 2005, 56 percent of professionals were women (primarily teachers and nurses). Statistics generally were not well collected in the country,

and data on the participation of women in the overall work force and on comparative wages were unavailable. Women have rights of ownership and inheritance of property as well as full and equal access to education. However, land inheritance laws are patrilineal, and sons are entitled to more land than daughters.

The Citizenship Act contains some discriminatory provisions. For example, the foreign wife of a male citizen acquires citizenship automatically through the marriage; however, 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 noncitizen parent. Citizenship also is derived through one's father. The law requires registration of births within 10 days, but this time frame was not always observed in practice. The government worked with support from The UN Children's Fund (UNICEF) to improve timely registration of births.

Child Abuse: Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. There is a police unit specifically focused on child and family violence.

Child Marriage: The legal minimum age for marriage is 21 years, or 16 years with permission of parent or guardian. According to Family Planning International, the median age of marriage for women was 20.

Sexual Exploitation of Children: The minimum age for consensual sex is 15. Sexual relations with a girl under age 13 carries a maximum penalty of life imprisonment, and sexual relations with a girl age 13 to 14 carries a maximum penalty of five years' imprisonment. 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 could 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' imprisonment, respectively. The penal code outlaws pornography production, possession, and distribution in general but has no specific provision concerning child pornography.

Underage girls were among groups of women that engaged in commercial sex with crew members aboard large foreign fishing boats in Kiribati waters. Local I-Kiribati, sometimes including family members, reportedly acted as facilitators, helping to transport girls to the boats. Girls working as prostitutes frequented bars popular with crewmembers. The girls generally received cash, alcohol, food, or goods in exchange for sexual services.

See also the Department's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

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

### **Anti-Semitism**

The country's Jewish community was limited to a small number of visiting foreign nationals, 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/](http://www.state.gov/j/tip/).

### **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 special needs of persons with disabilities. Accessibility of buildings, communications, and information for persons with disabilities is not mandated, and there were no special accommodations for persons with disabilities.

There were two main nongovernmental organizations that supported and advocated for persons with disabilities: Te Toa Matoi (Disabled Persons' Organization) and the School for the Disabled. The school offered special elementary education classes and programs for children with disabilities from age six to age 14. Aside from this school, children with disabilities generally did not have access to education. A small number of children with disabilities pursued schooling in Fiji. During the year three schools in the outer islands were refurbished with foreign government assistance. These schools were made accessible for children 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.

There was no government agency specifically responsible for protecting the rights of persons with disabilities.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Consensual same-sex sexual conduct between men is illegal, with a maximum penalty of five to 14 years' imprisonment depending on the nature of the offense, but there were no reports of prosecutions directed at gay, bisexual, or transgender persons under these provisions for sexual activity between consenting adults.

There is no law specifically prohibiting 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, although social stigma or intimidation were possible factors that might prevent such incidents from being reported.

### **Other Societal Violence or Discrimination**

There were no reports of societal discrimination or violence against persons with HIV/AIDS, although social stigma or intimidation were possible factors that might prevent such incidents from being reported. 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 protects the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The law prohibits employment discrimination on a number of grounds, including political opinion, but does not specifically include union membership or activity as a prohibited ground of discrimination or provide for reinstatement of workers fired for union activity. The government did not control or restrict union activities; however, unions must register with the government.

There were no official public-sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

The government's Public Service Office sets wages in the large public sector (53 percent of workers in the cash economy, according to the 2005 census). 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. In keeping with tradition, negotiations generally were nonconfrontational. 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, and there were mechanisms to resolve any complaints that might arise.

#### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits forced or compulsory labor, and 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 age 14. Children through age 15 are prohibited from industrial employment and employment aboard ships. Officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy. Some children sold goods on the street, and there were some reports of girls working as prostitutes (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

There was no legislated minimum wage, but the Labor Ministry estimated the "nonlegislated" minimum to be between A\$1.60 and A\$1.70 (\$1.66 and \$1.77) per hour. There is provision for a minimum wage at the discretion of the Labor Ministry, but it has never been implemented. The standard wage income provided a marginally decent standard of living for a worker and family, but most of the working population worked within a subsistence economy. As of 2006 (the latest information available), the basic needs poverty line was estimated at A\$112.80

(\$117.30) per household, or A\$16.09 (\$16.73) per capita adult equivalent, per week.

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 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.

Employment laws provide rudimentary health and safety standards for the workplace, which the Labor Ministry is responsible for enforcing. Employers are liable for the expenses of workers injured on the job, but 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, but no known workplace inspections were conducted during the year. There were no reports of workplace accidents during the year.