

KIRIBATI 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Kiribati is a constitutional multi-party 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 be generally free and fair. Citizens re-elected Anote Tong of the Boutokaan Te Koaua Party president in January 2012. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

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

Obstacles encountered by a would-be independent newspaper in 2012 continued and 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 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. The government permitted visits by independent human rights observers.

Physical Conditions: As of September 6, the prison system held 141 inmates. There were 128 convicted prisoners, including 124 men and four women, and 13 male pretrial detainees. Total intended capacity of the prison system was 125 inmates. 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, although 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 those persons charged with minor offenses on their own recognizance pending trial. There were no deaths reported attributable to prison conditions. Prisoners had access to potable water.

Administration: Lack of resources and staff contributed to a substandard system of recordkeeping, and there were no specific steps taken to improve recordkeeping during the year. Community service-based sentences provided alternatives to incarceration for juvenile offenders. The country does not have any ombudsman who can serve on behalf of prisoners and detainees. Prisoners and detainees had access to visitors and permission for 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. The government monitored prison conditions.

Independent Monitoring: The government permitted monitoring visits by independent human rights observers. The International Committee of the Red Cross visited prisons in the capital, South Tarawa, in 2012.

Improvements: The government worked with UN agencies to strengthen the juvenile justice system, endorsing child protection standard operating procedures and publication of a training manual for community police in 2012, and reviewing the juvenile justice laws during the year. The government began a new diversion policy on rehabilitation for young offenders. At the end of January, human rights observers estimated that more than 70 percent of young offenders were diverted from the formal justice system; they attended school and performed community service as an alternative to detention.

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 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. 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. 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 until proven guilty. The

government must inform accused persons promptly of the charges and provide 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 citizens.

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. The government did not act on the 2012 registration application of an independent newspaper, however, obliging the newspaper to cease publication until January, when it began publishing again but only from outside the country and online.

Press 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 either by the government's Broadcasting and Publications

Authority or a media company owned by a member of parliament. The only television station closed its operations during the year, reportedly due to financial problems and the station's lack of programming and technical expertise.

The law requires registration of newspapers. In March 2012 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 2012 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 and resumed publication in January from abroad and online. Several international media rights organizations criticized the ministry's delay as unreasonable and possibly politically motivated. As of year's end the ministry had not acted on the registration application.

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 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 International Telecommunication Union, approximately 11 percent of the population used the internet in 2012.

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/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. 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 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 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 2011 were considered generally free and fair.

Participation of Women and Minorities: There were four women in the legislature, three 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 corruption by officials, but the government did not always implement the law effectively. Government officials sometimes engaged in corrupt practices with impunity.

Since 2009, together with Nauru and Tuvalu, the country participated in a sub-regional 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. The government, with the help of multilateral partners, also continued to upgrade its fiscal information systems and revise the public finance regulation to strengthen its budget execution, reporting, and auditing.

Corruption: Nepotism, based on tribal, church, and family ties, was prevalent. The auditor general is responsible for oversight of government but lacked sufficient resources, and findings of misappropriations and unaccounted for funds were generally ignored, or the investigations were inconclusive. During the year the Prosecutor's Office prosecuted one case of corruption, and four additional cases were awaiting trial. In October two ministers resigned amid allegations of excessive allowance payments.

Whistleblower Protection: The law does not provide protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality.

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 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; however, only native I-Kiribati may own land. The law prohibits gender discrimination only with regard to employment, but due mainly to limited resources the government did not effectively enforce this provision during the year. There is no law prohibiting discrimination on the basis of disability, sexual orientation, gender identity, or social status.

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 occurred during the year. As of September the Prosecutor's Office had 12 rape cases, 10 indecent assault cases, and six other cases involving violence against women pending in court for trial, sentencing, or pretrial administrative processing.

The government launched its national action plan for the elimination of gender-based violence in 2011, recognizing the high prevalence of violence against women. During the year the government, in partnership with the Secretariat of the Pacific Community Regional Rights Resource Team, facilitated training for community leaders to effectively carry out consultations on proposed legislation to combat and respond to domestic violence. 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. During the first six months of the year, the police registered 76 cases of domestic violence and 18 cases of sexual offenses (including rape and indecent assault). 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. The NGO Kiribati Family Health Association also provided information and counseling on family planning and offered reproductive health care services. According to UN Children's Fund 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. The law requires 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). Women have rights of ownership and inheritance of property as well as full and equal access to education. Land inheritance laws are patrilineal, however, and sons are entitled to 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 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.

Education: Primary and junior secondary education for boys and girls is free and compulsory from six to 15 years of age.

Child Abuse: Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. During the year the government passed the Children, Young People and Family Welfare Law to enhance the care and protection of children and young people and reviewed the law that allows corporal punishment as an acceptable form of discipline. The review was continuing at year's end.

Forced and Early 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. According to the 2010 census, an 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 age 18 for the purpose of prostitution, and also prohibits using a child of either gender under age 15 for prostitution. In both cases the maximum penalty is two years' imprisonment. 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 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. Native 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 reportedly received cash, alcohol, food, or goods in exchange for sexual services.

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/.

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.

Two main NGOs supported and advocated 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 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. In 2012 three schools in the outer islands were refurbished with foreign government assistance and 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 is 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 protects workers against acts of antiunion 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 government did not control or restrict union activities; however, unions must register with the government. Additionally unions are not provided the right to join or form a trade federation or to affiliate with an international workers' organization.

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.

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 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 nonessential sectors includes imprisonment and heavy fines.

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, with penalties of up to A\$250,000 (\$233,645) in fines and up to life imprisonment for anyone found guilty of the offense, penalties which 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 age 14 and sets the minimum age for hazardous work at 18. Children through age 15 are prohibited from industrial employment and employment aboard ships. There are no additional laws regarding working hours or occupations for children between ages 15 and 18. Officers from the Ministry of Labor and Human Resources Development generally enforced existing laws effectively. The law penalizes employers with an A\$50 (\$47) fine for violations, which was not a sufficient deterrent. Children rarely were employed outside the traditional, informal economy. Some children sold goods on the street, and there were some reports of girls working in prostitution (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.

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 (\$1.50 and \$1.60) per hour. There is provision for a minimum wage at the discretion of the Labor Ministry, but the ministry never established a minimum wage. 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 (\$105.40) per household, or A\$16.10 (\$15) 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 working hours in the private sector, but private-sector employers usually followed the practice in the public sector. 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 for documentation.

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. There were no known inspections during the year. During the year the *Kiribati Independent* online news website reported one death and injury to two divers at a local commercial sea cucumber processing operation.