

KIRIBATI 2016 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 on December 30, 2015, and January 7, 2016, generally free and fair. Citizens elected Taneti Maamau president on March 9. Observers considered this election free and fair.

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 a problem, 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 Deprivation of Life and other Unlawful or Politically Motivated Killings

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

There were no significant reports of prison or detention center conditions that raised human rights concerns.

Physical Conditions: In contrast to previous years, prison capacity increased and overcrowding was not a problem. 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 could be held in custody longer.

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 substandard 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. Authorities did not receive any such complaints or undertake any investigations during the year.

Independent Monitoring: The government permitted monitoring visits by independent human rights observers, and Kiribati Red Cross personnel visited prisons in April.

Improvements: The government continued to work with UN agencies to strengthen the juvenile justice system and implement reforms adopted in 2015. The government constructed a new facility for female prisoners on Kiritimati Island in 2015.

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 authorities made arrests. Authorities must bring persons taken into custody without a warrant 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 routinely granted bail for many offenses. The law requires that authorities inform arrested individuals of the charges against them and of their rights, including the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also have the option of writing and reviewing statements given to police. Detainees received prompt access to legal counsel. Arrested persons facing serious charges and others needing legal advice but unable to afford a lawyer received free counsel from the Office of the People's Lawyer. Suspects were not held incommunicado or under house arrest.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The constitution protects persons from unlawful detention, and detainees are entitled to compensation and may apply to the High Court for redress.

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; interpretation, if needed, is not provided free and may be difficult to obtain. 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 or Unlawful 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. Either the

government's Broadcasting and Publications Authority or a media company owned by a member of parliament operated most locally based news media. 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.

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, approximately 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 has 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 periodic free and fair elections held by secret ballot. Elections are based on universal and equal suffrage, and citizens freely 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 elects one; and the attorney general is an ex officio member. Two-step parliamentary elections held on December 30, 2015, and January 9, 2016, and the national presidential election held on March 9, 2016, were considered free and fair.

Participation of Women and Minorities: Women’s political participation, although not hindered by law, was low, largely due to traditional perceptions of women’s role in society. Three women were elected to the legislature. In September parliament appointed the country’s first female attorney general and several women served as permanent secretaries and deputy secretaries.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. Government officials sometimes engaged in corrupt practices with impunity.

Nepotism and favoritism 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. Kiribati President Taneti Maamau has highlighted the need for increased government anti-corruption efforts since taking office in March. In April parliament established a Parliamentary Committee on Anti-Corruption to prevent and investigate corruption. In September parliament amended the constitution to create a new Ministry of Justice and appointed the country's first minister of justice. Inter alia, the new ministry will focus on good governance and anti-corruption.

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, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In May as follow-up to the 2015 UN Universal Periodic Review (UPR), the government, together with foreign partners, offered training to police, nongovernmental organizations (NGOs), and church-based groups to develop strategies to implement UPR recommendations in areas such as strengthening human rights institutions and policies, non-discrimination, and discrimination against women.

Government Human Rights Bodies: A Human Rights Taskforce and Human Rights Unit based in the Ministry of Women, Youth, and Social Affairs is responsible for providing human rights training and monitoring and coordinating implementation of ratified human rights treaties.

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

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. The Te Rau N Te Mwenga Act (also referred to as the Family Peace Act), criminalizes domestic violence, and the government, in partnership with the Secretariat of the Pacific Community Regional Rights Resource Team, continued training for police, public prosecutors, health, social welfare, education, elected officials, and 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 existed, 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 Employment and Industrial Relations Code 2015 prohibits sexual harassment and prescribes a A\$1,000 (\$760) fine for anyone found guilty of the offense. There were no official reports of sexual harassment. 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 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 World Health Organization estimated that the maternal mortality ratio was 90 deaths per 100,000 live births, a decrease of more than 50 percent since 1995. Skilled health personnel attended 80 percent of live births. According to UN Population Division, an estimated 22 percent of married women ages 15 to 49 used a modern method of contraception in 2015.

Discrimination: The law prohibits discrimination on the basis of gender in employment but not in other areas (see section 7.d.). 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 did 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 acquired by birth in the country, unless the child acquires the citizenship of another country at birth through a non-citizen parent. Citizenship may also be acquired through the father. The law requires registration of births within 10 days.

Child Abuse: Child abuse, both physical and occasionally sexual, and often exacerbated by chronic alcohol abuse, continued to be a serious problem. The law covers the care and protection of minors and mandates the Ministry of Women, Youth, and Social Affairs with implementing the law. The government developed the curriculum and counselling guidelines for teachers to help students. In 2015, 26 head teachers from South and North Tarawa received training in a code of ethics to promote child protection issues.

Early and Forced Marriage: The legal minimum age for marriage is 21, or 17 with the permission of a parent or guardian. According to the Kiribati Demographic and Health Survey (2009), the median age of marriage for women was 20.1, while the median age of marriage for men was 23.6. 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 age 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.

Anecdotal information from local government and nongovernment sources suggested that a small number of underage girls were among groups of women alleged to be engaged in commercial sex with crewmembers from foreign fishing vessels. The girls reportedly received cash, alcohol, food, or goods and engaged in sexual activity with the fishermen. Sources noted that the young women engaged in this activity appeared to participate voluntarily, were not coerced into participating, and did not consider the activity to be commercial sex but rather a relationship. Sources, however, also indicated girls as young as 14 were involved in this activity and some I-Kiribati, including family members, older women, and hotel and bar workers, may have facilitated child sex trafficking by providing the girls with transportation or a meeting place with the fishermen. Others failed to alert authorities to situations of adult men engaging in sexual activity with underage girls.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

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. Seven schools in the outer islands, the teacher's college, and the Ministry of Education headquarters were accessible for children and staff 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, conduct strikes, and bargain collectively. The government did not control or restrict union activities; however, unions must register with the government. The law prohibits antiunion discrimination at the time of hiring and while employed, but does not specifically provide for reinstatement of workers fired for union activity.

The government effectively enforced the laws. Penalties for violations range up to a A\$1,000 (\$760) fine or imprisonment of up to 1 year, and were sufficient to deter violations. There were no reports of lengthy delays or appeal processes during dispute resolution.

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\$10,000 (\$7,600). These penalties were sufficient to deter violations.

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 government and the employers in practice respected freedom of association and the right to collective bargaining.

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 nonconfrontational. There were no known collective bargaining

agreements during the year and no instances reported of denial of the right to strike. There were no reports of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The constitution and laws prohibit most forms of forced or compulsory labor, with some exceptions regarding times of emergency or “calamity.” The law prescribes penalties of up to A\$100,000 (\$76,000) in fines and up to 25 years’ imprisonment for anyone found guilty of an offense. Penalties were considered sufficiently stringent to deter violations. There were no reports that forced labor occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under age 14 except in light work. The Employment and Industrial Relations Code 2015 (EIRA) and the Occupational Safety and Health Act, enacted in August, set the standards for minimum age of employment. Employment in the worst forms of child labor is prohibited, including the sale or trafficking of children; compulsory recruitment of children for use in armed conflict; use, procuring, or offering for prostitution; use, procuring, or offering of a child for illicit activities; and use, procuring, or offering of a child for the production or trafficking of illegal drugs. The EIRA prescribes a A\$5,000 fine (\$3,800) and/or a term of 10 years’ imprisonment for anyone found guilty of violating the laws regarding the worst forms of child labor. Children are prohibited from hazardous work and the penalty for violations includes a fine of A\$1,000 (\$760) or 12 months’ imprisonment. Penalties were considered sufficient to deter violations.

The government effectively enforced the laws. The ministry conducted enforcement outreach efforts.

Child labor existed primarily in the informal economy. In contrast to previous years, observers noted a decline in the number of children in street vending in Tarawa. There were allegations of minors involved in sexual activity with foreign fishing crews, receiving cash, alcohol, food or goods (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 prohibit discrimination regarding ethnic origin, race, color, sex, religion, political opinion, national origin, social origin, disability, sexual orientation, age, HIV or other communicable disease status, social class or economic status, pregnancy, marital status, family responsibilities, state of health, and/or an investigation or legal proceedings affecting the employer. A penalty fine of A\$1,000 (\$760) was adequate to deter violations.

There were no formal reports of discrimination in employment and wages. Cultural barriers, however, sometimes impeded women from playing a more active role in the economy. According to the 2010 census, 43 percent of the formal labor force were women. Women filled many government office, nursing, and teaching positions.

e. Acceptable Conditions of Work

In November under the Employment Relations and Industrial Relations Code 2015, the government established the national minimum wage for local businesses and companies at A\$1.30 (\$0.98) per hour, while for overseas-funded projects, the minimum wage was A\$3.00 (\$2.27) 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.

The EIRA law limits the workweek to 40 hours. The law provides for the possibility of paid annual holidays for all employees except casual workers and 12 weeks for maternity leave but it leaves the determination up to individual employment contracts, which are then submitted to the Ministry of Labor and Human Resources Development for documentation. Workers in the public sector worked 36.25 hours per week, with required 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 2015 Occupational Health and Safety Act set the country's first comprehensive framework for occupational safety and health standards for the workplace. The Ministry of Labor and Human Resources Development is responsible for enforcing the standards. The law prescribes a A\$5,000 (\$3,800) fine in the case of a corporate organization and a A\$2,000 (\$1,520) fine and/or one year's imprisonment for anyone found guilty of violating the occupational health and safety standards. Employers are liable for the expenses of workers injured on

the job. By law workers may remove themselves from situations that endanger their health or safety without threat to their employment.

A lack of qualified personnel hampered the government's ability to enforce employment laws. The ministry had six labor officers responsible for performing labor inspections; five were based on Tarawa and one on Kiritimati Island. Two labor officer positions remained vacant. 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. Anecdotal information suggested that workers in the service and hospitality sector worked excessive hours.