

# KIRIBATI 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Kiribati is a constitutional multiparty republic. The president exercises executive authority. Following legislative elections, the House of Assembly nominates at least three and no more than four presidential candidates from among its members, and the public then elects the president for a four-year term. Citizens elected Taneti Maamau president in March 2016. Observers considered the election free and fair. Observers considered the two-stage parliamentary elections held in December 2015 and January 2016 to be free and fair.

The Police and Prisons Service, under the Ministry of Justice, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the police.

Significant human rights issues included: corruption; criminalization of consensual sexual activity between men, although the law was not enforced; and child labor.

The government took steps to investigate officials who committed human rights abuses, and impunity was not a problem.

### **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 that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **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.

## **Prison and Detention Center Conditions**

Although physical conditions in prisons were not problematic, commingling of convicted prisoners, pretrial detainees, and juvenile offenders remained a problem. As of October the two female prisoners were kept separately from male prisoners.

Physical Conditions: In practice, convicted prisoners, pretrial detainees not granted bail, and juvenile offenders ages 17 to 18 were all held together, although there were no juvenile offenders held as of October. Children younger than 16 were usually not incarcerated. Juveniles ages 16 to 17 were generally detained no longer than one month, although for more serious offenses, such as murder, they could be held in custody longer. Community-service-based sentences provided alternatives to incarceration for juvenile offenders.

Administration: Although authorities permit complaints by inmates about inhuman conditions, authorities did not report receiving any such complaints or undertake any investigations in the year to October.

Independent Monitoring: The government permits monitoring visits by independent human rights observers, but there were no reported visits during the year.

### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

### **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 arrests take place 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 the 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.

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

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

#### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Procedural safeguards include the presumption of innocence and provision of adequate time and facilities to prepare a defense. Those on trial also have the right to communicate with an attorney of their choice, present witnesses and evidence, confront witnesses against them, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Interpretation, if needed, is not provided for free and may be difficult to obtain. Defendants cannot be compelled to testify or confess guilt. 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. Although the incidence of communal justice continued to decline under pressure from the codified national law, there were reports of such cases during the year.

#### **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 there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. There were some reports the government impeded visiting foreign journalists' efforts to report on Kiribati, although the government said the reporters had failed to follow the proper application processes.

Press and Media, Including Online Media and Internet Freedom: Although there were no government restrictions, there were some concerns about the lack of independent local media and the 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 allows 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.

### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms 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 <https://www.state.gov/religiousfreedomreport/>.

#### **d. Freedom of Movement**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

Access to Asylum: The law does not specifically provide for the granting of asylum or refugee status, and the government has not established a formal system for providing protection to refugees. The principal immigration officer has wide discretionary authority to permit foreigners to stay in the country. During the year there were no reported applications for asylum or refugee status.

#### **g. Stateless Persons**

Not applicable.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Observers considered the presidential election held in March 2016 to be free and fair. 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, as an ex officio member, occupies the remaining seat. Two-step parliamentary elections held in December 2015 and January 2016 were considered free and fair.

Participation of Women and Minorities: No laws limit participation of women or members of minority groups in the political process. Their participation was low, largely due to traditional perceptions of their role in society. Three women were elected to the legislature in 2016, comprising 7 percent of that body. The same year, parliament appointed the country's first female attorney general; several women served as permanent secretaries and deputy secretaries in the administration.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but corruption by officials was common, as was impunity.

Corruption: Nepotism and favoritism based on tribal and church ties were prevalent. The auditor general is responsible for oversight of government but lacked sufficient resources to enforce the law effectively. In June the vice president was removed from office for breaching the government's travel policy and due to concern over delays in the Bairiki sports stadium redevelopment, which the vice president was overseeing. With the support of international donors, the government consulted with, and conducted training for, parliamentarians, citizens, and community-based organizations to strengthen capacities to address corruption and to implement the 2016 Leaders Code of Conduct.

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

#### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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.

Together with foreign partners, the government offered training to police, nongovernmental organizations (NGOs), and church-based groups to develop strategies to strengthen human rights institutions and policies, and to reduce discrimination against women.

Government Human Rights Bodies: A Human Rights Taskforce and a Human Rights Unit based in the Ministry of Justice provide human rights training and monitoring, and coordinate implementation of human rights treaties.

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

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is a crime, with a maximum penalty of life in prison, but sentences typically were much shorter. Domestic violence is a crime. 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.

The government, in partnership with UN Women, the Fiji Women's Crisis Center, the Secretariat of the Pacific Community Regional Rights Resource Team, and development partners, continued training for police, public prosecutors, health workers, social welfare workers, education officials, elected officials, and NGO workers to implement the law effectively. Cultural taboos on reporting rape and domestic abuse and police attitudes encouraging reconciliation rather than prosecution existed.

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 whose 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 Kiribati Women and Children Support Center (KWCS) continued increasing support for women and children affected by violence. With the support of an NGO, the KWCS also provided victims with counselling and referral services. The Catholic Church operated a second shelter for women and children in Tarawa. The Ministry of Health operated a clinic at the main hospital in Tarawa for victims of domestic violence and sexual offenses.

Sexual Harassment: The law criminalizes sexual harassment and prescribes a fine of 1,000 Australian dollars (AUD, the country's official currency) (\$681) for anyone found guilty of the offense. There were no official reports of sexual harassment. The Ministry of Employment and Human Resource is implementing a

three-year Gender Access and Equality Plan to promote a zero-tolerance policy for sexual harassment in workplaces and training institutes.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilizations.

Discrimination: The law prohibits discrimination on the basis of gender in employment but not on other grounds (see section 7.d.), and there were no reports of government enforcing the law. 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. Mothers cannot confer nationality to their children.

## **Children**

Birth Registration: Citizenship is acquired by birth in the country, unless the child acquires the citizenship of another country at birth through a noncitizen parent. Citizenship may also be acquired through the father. The law requires birth registration within 10 days.

Child Abuse: The law covers the care and protection of minors; the Ministry of Women, Youth, and Social Affairs is responsible for implementing the law. Child abuse, both physical and occasionally sexual, and often exacerbated by chronic alcohol abuse, continued to be a serious problem. The government developed curriculum and counseling guidelines for teachers to help students with abuse issues.

Early and Forced Marriage: The legal minimum age for marriage is 21, or 17 with the permission of a parent or guardian.

Sexual Exploitation of Children: The law prohibits the procurement of any girl younger than 18 for the purpose of prostitution and prohibits using a child of either gender younger than 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 younger than 13 carry a maximum penalty of life imprisonment, and sexual relations with a girl ages 13 to 14 carry 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 victims) and as 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 engage in commercial sex with crewmembers from foreign fishing vessels.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

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

### **Trafficking in Persons**

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

### **Persons with Disabilities**

There are no overall legal protections for persons with disabilities. The law prohibits discrimination in employment against persons with disabilities. It does not define disability but prescribes an AUD 1,000 (\$681) fine for anyone found guilty of the offense, although the law was not enforced.

Public infrastructure and essential services did not meet the needs of persons with disabilities. Access to buildings, communications, and information for persons with disabilities is not mandated, and there were no specific accommodations for persons with disabilities.

Most children with disabilities did not have access to education. 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 Affairs 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, but there have been no reports of prosecutions under these provisions for many years. No law specifically prohibits discrimination on the basis of sexual orientation or gender identity in housing, employment, nationality laws, or access to government services such as health care.

There were no reports of investigations into violence and abuse against persons based on sexual orientation or gender identity, but social stigma and the inaccessibility of government services may prevent reporting of incidents of discrimination or violence based on sexual orientation or gender identity.

## **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 include fines or imprisonment 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 do international standards. The penalties for unlawful strikes in both essential and nonessential sectors include imprisonment and a fine and were sufficient to deter violations.

The government and the employers in practice respected freedom of association and the right to collective bargaining. The Kiribati Trade Union Congress claims 3,000 members, including unions and associations for nurses, teachers, fishermen, and seafarers.

In keeping with tradition, negotiations generally were nonconfrontational. There were no known collective-bargaining agreements 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 fines and imprisonment that are considered sufficient to deter violations. There were no reports forced labor.

#### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children younger than 14 except in light work, and of children ages 14 to 18 in hazardous work. The law does not, however, specify what constitutes either light or hazardous work. Although the worst forms of child labor are generally 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--gaps exist within Kiribati’s legal framework. For example, the law does not specifically prohibit domestic trafficking of children. Penalties were insufficient to deter violations.

The Ministry of Employment and Human Resource conducted enforcement outreach efforts and established a mechanism for labor complaints, including child labor complaints. The government effectively enforced the law.

Child labor existed primarily in the informal economy. 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 <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment, and 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. Persons with disabilities faced discrimination in hiring and access to worksites.

#### **e. Acceptable Conditions of Work**

The national minimum wage for employees of local businesses and companies was lower than the minimum wage rate for employees of foreign funded projects. This wage was higher than the poverty income level, but most of the working population worked in the informal, subsistence economy. The Public Service Office sets wages in the public sector, which makes up approximately half the employment in the formal economy.

The law sets the workweek at 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 Employment and Human Resource for documentation. Workers in the public sector worked 36.25 hours per week, with overtime pay required for additional hours. No law or regulation governs the amount of overtime an employee may work.

The Ministry of Employment and Human Resource is responsible for enforcing occupational safety and health 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 conducted labor inspections and did not receive any work-related injury complaints in the year to October. The government did not provide any information on penalties for noncompliance. Anecdotal information suggested that workers in the service and hospitality sector worked excessive hours.