

KIRIBATI 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Kiribati is a constitutional multiparty republic. The president exercises executive authority. Following legislative elections, the House of Assembly nominates three or four presidential candidates from among its members, and the public then elects the president for a four-year term. Two-stage parliamentary elections in April preceded the June 22 presidential elections, in which citizens re-elected Taneti Maamau president. Observers considered the elections to be free and fair, despite allegations of corruption and foreign influence throughout election campaigning.

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 police. Members of the security forces were not reported to have committed abuses.

Significant human rights issues included: 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.

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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.

Impunity was not a problem in the security forces.

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 September 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 September. Children younger than age 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 September.

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.

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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.

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

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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 from domestic courts.

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.

Although independent local media was limited, media outlets were active and expressed a wide variety of views without restriction.

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

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The constitution provides for the freedoms of peaceful 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. Status and Treatment of 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.

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 two-step legislative elections in April and the June 22 presidential election to be free and fair. The legislature has 46 members. Of that number, 44 are elected by universal adult suffrage; the Rabi Island Council of i-Kiribati (persons of Kiribati ancestry) in Fiji elects one; the attorney general, as an ex officio member, occupies the remaining seat. Anecdotal

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information from regional media reported unverified claims of foreign interference during election campaigning.

Participation of Women and Members of Minority Groups: 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. Four women were elected to the legislature in April, comprising 9 percent of that body, compared with three women in the last elections in 2016. In April parliament appointed the country's first female speaker of parliament, and 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 the government did not implement the law effectively. There were no reports of government corruption during the year. Officials sometimes engaged in corrupt practices with 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.

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 generally cooperative and responsive to their views.

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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 of women and men 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 and addressing inequalities through its *Gender Equality and Women's Development Policy*. The police force has a Domestic Violence and Sexual Offenses Unit whose officers participated in a capacity-building program that provided training in handling such cases. Police ran a 24-hour hotline for victims of sexual violence and domestic abuse. The Kiribati Women and Children Support Center continued increasing support for women and children affected by violence. With the support

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of an NGO, the center 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 monetary fine 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 government workplaces and training institutes.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children and to manage their reproductive health. They had 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 Kiribati Family Health Association also offered mobile reproductive health-clinic 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.

The government provided sexual and reproductive health services to survivors of sexual violence.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilizations on the part of government authorities.

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

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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, with collaboration from international partners, finalized its child protection interagency guidelines and referral pathway and provided training for service providers on the guidelines.

Child, 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 age 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.

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Anecdotal information from local government and nongovernment sources suggested that a small number of underage girls were exploited 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 Kiribati 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 a 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.

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Acts of Violence, Criminalization, 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 commensurate with other laws involving denials of civil rights, such as discrimination. 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.

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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 who were able to exercise their labor rights.

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 commensurate with those for similar serious crimes. The government enforced the law, and there were no reports of 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 the country’s legal framework. For example the law does not specifically prohibit domestic trafficking of children. Penalties were not commensurate with those for similar serious crimes.

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 in the formal sector.

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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 on the basis of ethnic origin, race, color, religion or political opinion, age, state of health or membership of a trade union, and prohibits sexual harassment. Penalties for violations include fines and were commensurate with other laws related to civil rights. The government effectively enforced the law. There were no formal reports of discrimination in employment and occupation. There are no legal restrictions against women in employment to include limiting working hours, occupations, or tasks. Cultural barriers, however, 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 official poverty income level, but most of the working population worked in the informal, subsistence economy where the law was not enforced. 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 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.

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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. Penalties for violations include fines, and penalties were commensurate with those for similar crimes, such as fraud and negligence.

The government enforced the law in the formal sector. A lack of resources and qualified personnel hampered the government's ability to enforce employment laws effectively in all sectors. The ministry conducted labor inspections and did not receive any work-related injury complaints in the year to October. Inspectors have the authority to make unannounced inspections and initiate sanctions.