



Convention on the Rights of the Child

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: KIRIBATI

The Committee considered the initial report of Kiribati (CRC/C/KIR/1) at its 1166th and 1168th meetings (see CRC/C/SR.1166 and 1168), held on 13 September 2006, and adopted, at its 1199th meeting, held on 29 September 2006, the following concluding observations:

A. Introduction

The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, the written replies to its list of issues (CRC/C/KIR/Q/1 and Add.1) and the additional information provided. The Committee also notes with appreciation the frank and open dialogue with the high-level delegation of the State party, which allowed for a better understanding of the situation of children in Kiribati.

B. Positive Aspects

The Committee welcomes a number of positive developments in the reporting period, including:

- (a) The adoption of the National Youth Policy and Action Plan in 2001;
- (b) The development of the National Plan of Action (2006-2008);
- GE.06-45200(c) The establishment of the Kiribati National Advisory Committee on Children (KNACC);
- (d) The creation of the Family Assistance and Sexual Offences Unit in the Kiribati Police Service; and
- (e) The ratification of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

C. Factors and difficulties impeding the implementation of the Convention

The Committee acknowledges the challenges faced by the State party, including those resulting from its geographical isolation and extreme vulnerability to natural disasters and external economic forces, leading to its classification as a Least Developed Country. The Committee is also aware of the difficulties resulting from deep-rooted traditions and the differences between provisions of domestic legislation and customary law.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 4, 42 and 44(6))

Reservation

The Committee regrets that despite the State party's previous intention to withdraw its reservations to articles 24 *b, c, d, e* and *f*, 26 and 28 *b, c* and *d* of the Convention, the State party has not yet made a decision regarding this withdrawal.

The Committee recommends that the State party take the necessary steps to withdraw its reservations to articles 24, 26 and 28 of the Convention.

Legislation

The Committee is concerned that there is no specific legislation to protect the rights of the child and that domestic law, including customary law, is not in full compliance with the principles and provisions of the Convention and is frequently not implemented, particularly in remote areas. The Committee is further concerned that Kiribati has only ratified two of the seven core international human rights treaties.

The Committee recommends that the State party take effective measures, with the assistance of UNICEF, to harmonize its domestic legislation, which includes customary law, with the provisions and principles of the Convention. The Committee also recommends that the State party consider ratifying other core international human rights treaties, as recommended in the Pacific Plan for Strengthening Regional Cooperation and Integration adopted in October 2005 by the sixteen Leaders of the Pacific Islands Forum.

Coordination

The Committee welcomes the creation of KNACC, within the Ministry of Environment and Social Development (MESD), responsible for coordinating and overseeing the implementation of the Convention. However, the Committee regrets the scarcity of human and financial resources allocated to KNACC, which does not allow it to effectively carry out its work.

The Committee recommends that the State party take all necessary measures to ensure that KNACC can pro-actively perform its role in coordinating and implementing the rights of the child and that it is provided with sufficient human and financial resources.

Independent monitoring mechanism

The Committee is concerned that no independent mechanism exists to monitor, regularly evaluate and report on the implementation of the Convention.

The Committee recommends that the State party consider the establishment of a national human rights institution, including the nomination of an ombudsperson for Children provided with adequate human and financial resources to promote and strengthen accessibility for children and to enable children to submit complaints . The Committee refers the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child. The State party is encouraged to seek technical assistance from, among others, UNICEF and the Office of the United Nations High Commissioner for Human Rights Regional Office in Suva, Fiji. The Committee encourages the State party to involve non governmental organizations (NGO) in its ongoing efforts to monitor the implementation of the Convention.

National Plan of Action

The Committee welcomes the adoption of the National Youth Policy and Action Plan in 2001 and the recent development of a National Plan of Action (2006-2008). The Committee is concerned that inadequate resources have been allocated for the effective implementation of the National Plan of Action.

The Committee recommends that the State party strengthen its efforts to adopt and implement a National Plan of Action which covers all areas under the Convention and takes into account the outcome document “A World Fit for Children” adopted by the United Nations General Assembly at its special session on children held in May 2002.

Data collection

The Committee is concerned at the lack of systematic and comprehensive data disaggregated by age and sex that would enable analysis of the situation of vulnerable groups of children in the State party.

The Committee recommends that the State party take measures to develop a systematic and comprehensive collection of disaggregated data, in compliance with the Convention, which should be used for the development, implementation and monitoring of policies and programmes for children.

Resources for children

The Committee notes that the State party assigns significant resources to the health and education sectors. Nevertheless, the Committee is concerned about the economic difficulties that the State party encounters which prevent it from allocating more resources to children and families.

The Committee recommends that the State party strengthen its efforts to significantly increase the proportion of the budget allocated to the realization of children’s rights to the “maximum extent...of available resources,” including through international cooperation, paying special attention to children who belong to economically disadvantaged groups. The State party should ensure that international cooperation in its various forms also supports activities to implement the Convention.

Dissemination of the Convention

The Committee is concerned that the Convention has not been fully incorporated into domestic legislation which could lead to a conflict between domestic laws and the provisions of the Convention. The Committee is also concerned that no apparent efforts have been undertaken by the State party to disseminate the Convention or to make it known to relevant stakeholders, including children and their parents and professionals working with and for children.

The Committee recommends that the State party:

Initiate the process of incorporating the Convention into its domestic law ;

Take steps to disseminate the Convention, including through the use of the radio as well as child-friendly materials and school curricula in primary and secondary schools;

Expand its programmes to sensitize children and parents about the Convention; and

Ensure that the Convention and related domestic legislation form an integral part of education and training of professional groups working with and for children, including judges, lawyers, teachers and social workers, to firmly establish in Kiribati a legal culture supportive of the rights of the child.

Cooperation with civil society

The Committee welcomes the participation of NGOs in the work of KNACC and the creation of the Kiribati Association of Non-Governmental Associations (KANGO). However, the Committee notes that there are few associations which are active on issues related to the rights of the child.

The Committee recommends that the State party take measures to facilitate the creation of (NGOs working on the rights of the child and their active involvement in KANGO.

2. Definition of the child(art. 1)

The Committee is concerned that there is no single definition of a child in Kiribati and that the various definitions of youth lead to practical contradictions and confusion.

The Committee recommends that the State party amend all relevant legislation to remove sources of confusion and harmonize the definition of the child, taking into account the provisions of the Convention.

3. General principles(arts. 2, 3, 6 and 12)

Non-discrimination

The Committee welcomes the indication by the State party that the gender gap in school enrolment has decreased. However, the Committee is concerned at reports of persistent discrimination experienced by children from economically disadvantaged families.

In the light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of de facto discrimination against children from economically disadvantaged families.

The Committee also requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 (2001) on the aims of education.

Best interests of the child

The Committee is concerned that the principle of the best interests of the child is not given adequate attention in national legislation and policies and that awareness of its significance is low among the population.

The Committee recommends that the State party take measures to raise awareness of the meaning and practical application of the principle of the best interests of the child and ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures.

Respect for the views of the child

The Committee welcomes the efforts of the State party to promote and implement the right of children to express their views and actively participate in various levels of society. However, the Committee is concerned at the persistence of traditional attitudes in the State party which limit children's rights to participate and to express their views .

The Committee recommends that the State party take into account the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard held on 15 September 2006 and adopt measures, including:

(a) Strengthening its efforts to promote within the family, communities, schools and other institutions respect for the views of children, especially girls, and to facilitate their participation in all matters affecting them;

(b) Strengthening national awareness-raising campaigns to change traditional attitudes that limit children's right to participation; and

(c) Regularly reviewing the extent to which children's views are taken into account, including their impact on relevant policies and programmes.

4. Civil rights and freedoms(arts. 7, 8, 13-17, 19 and 37 a)

Birth registration

The Committee is concerned that registration at birth registration is not a systematic procedure and that a large number of children in the State party are not registered.

The Committee recommends that the State party strengthen its efforts to ensure that all children are registered at birth to ensure the full enjoyment of their rights. The Committee also recommends that the State party take measures to promote the importance of birth registration for all children, including through awareness-raising initiatives and access to free and effective registration technology in Government offices.

Corporal punishment

The Committee is concerned that corporal punishment is not explicitly prohibited, and is still widely practiced in the home and schools and used as a disciplinary measure in alternative care settings. The Committee is also concerned that under article 226 of the Penal Code, “reasonable punishment” is permitted in penal institutions and by order of Island Councils.

The Committee recommends that, taking into account its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the State party :

Amend all relevant legislation, in particular article 226 of the Penal Code to ensure that corporal punishment is explicitly prohibited in the family, schools, penal institutions, alternative care settings and as a traditional form of sentencing; and

Take effective measures, including through public awareness campaigns involving children and traditional leaders, to promote positive, participatory and non violent forms of discipline as an alternative to corporal punishment at all levels of society, and to effectively implement the law prohibiting corporal punishment.

Violence, abuse and neglect

The Committee is concerned at the high number of reported cases of violence and child abuse, including sexual abuse, and reports that victims of rape are often shunned from their community. While the Committee welcomes the establishment of a Family Assistance and Sexual Offences Unit in the Kiribati Police Service, it is concerned at the lack of comprehensive measures to address this serious phenomenon.

The Committee recommends that the State party take all necessary measures to prevent and address violence against children and child abuse, including by:

Establishing an effective mechanism to receive, monitor and investigate reports of child abuse and neglect;

Developing and implementing preventive measures, including awareness-raising campaigns involving children and traditional leaders, to combat all forms of violence against children;

Ensuring that appropriate data on child abuse and neglect are gathered and disaggregated by age and sex; and

Providing victims with adequate protection, as well as psychological support, recovery and social reintegration assistance and ensuring that all perpetrators of sexual and other forms of child abuse are brought to justice.

In the context of the Secretary-General’s in-depth study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the participation of the State party in the Regional Consultation for East Asia and the Pacific held in Thailand from 14 to 16 June 2005 and in the Pacific Consultation on Addressing Violence against Children held in Fiji from 26 to 28 September 2005. The Committee recommends that the State party use the outcome of these regional consultations as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical or mental violence, and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

In addition, the Committee would like to draw the States party’s attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) and to encourage the State party to take all appropriate measures to implement the overarching recommendations and setting-specific recommendations contained in this report.

5. Family environment and alternative care(arts. 5, 18 (1-2), 9-11, 19-21, 25, 27 (4) and 39)

Children deprived of their family environment

The Committee notes that collective living arrangements in Kiribati offer solutions for the care of children by the extended family. However, the Committee is concerned that the best interests of the child are not a priority in decision-making processes.

The Committee recommends that the State party systematically apply criteria based on the best interests of the child and develop informal family-based alternative care solutions. The State party is encouraged to seek technical assistance in this regard from, among others, UNICEF.

Adoption

The Committee notes the practice of “informal adoption,” but is concerned that in some cases, the best interests of the child are not fully respected. The Committee is also concerned that the absence of monitoring and regulations may result in illegal domestic or

intercountry adoption.

The Committee recommends that the State party:

Take appropriate measures to ensure that the best interests of the child are fully respected in the practice of so-called “informal adoption”;

Strengthen its efforts to prevent illegal adoptions and ensure that its legislation and practice on both national and intercountry adoptions is brought into line with the Convention, and ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993; and

Establish effective mechanisms to review, monitor and follow up the adoption of children.

6. Basic health and welfare(arts. 6, 18 (3), 23, 24, 26, 27 (1-3))

Children with disabilities

While noting that children with mental and physical disabilities are protected from discrimination under section 15 of the Constitution, the Committee notes with concern that the resources available for these children are inadequate. The Committee is concerned, in particular, that schooling is not possible for all children with disabilities, especially in remote areas, and that possibilities for inclusion of children with disabilities have not been explored.

The Committee recommends that, taking into account the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities held on 6 October 1997 (see CRC/C/69), the State party take all necessary measures to:

(a) Address all forms of discrimination, including social discrimination and discrimination against children with disabilities in remote areas, giving due consideration to implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex); and

(b) Pursue its efforts to provide equal educational opportunities for children with disabilities, including by providing the necessary support and ensuring that teachers are trained to educate children with disabilities within regular schools.

Basic health and welfare

The Committee notes that the State party has taken steps to adopt national health plans and to ensure broad-based immunization for all children in Kiribati. The Committee welcomes the efforts made by the State party in the areas of maternal and child health, and the steps taken to develop sanitation and public health education programmes as well as to establish solid waste disposal facilities. However, the Committee is concerned that access to these sewage disposal facilities and to clean water is restricted. The Committee is also concerned at reports of high rates of infant and child mortality, acute respiratory infection and diarrhoea, and severe malnutrition among children.

The Committee recommends that the State party continue to strengthen its efforts to improve the health situation of all children with particular attention paid to the establishment of effective and accessible primary health care services.

Adolescent health

The Committee is concerned at reports of an increasing number of children who abuse drugs and consume alcohol and tobacco. The Committee is also concerned about the increasing rates of attempted suicides among young people, sexually transmitted infections (STIs), teenage pregnancies and the absence of programmes related to mental health and reproductive health .

The Committee recommends that the State party pay close attention to adolescent health, taking into account the Committee’s general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. In particular, the Committee recommends that the State party:

(a) Formulate a rights-based plan of action for the protection of all children, and particularly adolescents, from the dangers of drugs and harmful substances, and involve children in its formulation and implementation;

(b) Provide children with accurate and objective information about the harmful consequences of substance abuse;

(c) Ensure that children using drugs and harmful substances are treated as victims and not as criminals and develop recovery and social reintegration services for child victims of substance abuse;

(d) Strengthen reproductive health education for adolescents, especially in schools, with a view to reducing STIs and the incidence of teenage pregnancies, and provide teenage pregnant girls with the necessary assistance and access to health care and education; and

(e) Continue and strengthen technical cooperation from the World Health Organization (WHO) and UNICEF.

Environmental health

The Committee is concerned about traditional practices that have resulted in the multipurpose use of the ocean by a large proportion

of the population in Kiribati. In the absence of any practical preventive measures, the Committee is concerned about the ecological dangers of these practices.

The Committee recommends that the State party continues to undertake efforts to install an effective system for sewage disposal and conduct a sensitization campaign to promote new practices in the use of water and sanitation. The Committee recommends that the State party seek international technical cooperation in this regard.

HIV/AIDS

The Committee is concerned at the increased prevalence of HIV/AIDS among adolescents and the lack of knowledge about the potential for an epidemic in the country. The Committee is also concerned at the absence of awareness-raising and prevention programmes.

The Committee recommends that, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, the State party take action, including by:

- (a) Strengthening its efforts to combat the spread of HIV/AIDS, including through awareness-raising campaigns, and ensuring the availability of confidential, voluntary testing;**
- (b) Preventing discrimination against children infected with and affected by HIV/AIDS;**
- (c) Ensuring access to child-sensitive and confidential counselling, when such counselling is required by a child;**
- (d) Adopting measures to prevent mother-to-child transmission of HIV and other STIs; and**
- (e) Seeking international assistance from, among others, UNAIDS, the United Nations Populations Fund (UNFPA), UNICEF and WHO.**

Standard of living

The Committee recognizes that children and their families are severely impacted by the economic vulnerability of Kiribati. It is concerned that large numbers of families live in economic hardship, near or below the level of subsistence, especially in South Tarawa, and suffer from the effects of overcrowding and limited economic opportunities. The Committee takes note of the high number of job-seeking adolescents and is concerned at the difficulties of transition from school to the labour market, experienced in particular by children who dropped out before graduation.

The Committee recommends that the State party ensure that:

Financial support is provided to families living under restricted economic conditions and that it includes the provision of school lunches and educational allowances;

Schools assist families, particularly disadvantaged families, with regard to child care and education and provide facilities for special education programmes;

Families are provided with adequate and affordable housing; and

Youth unemployment is prevented by assisting adolescents who seek an occupation.

7. Education, leisure and cultural activities(arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

The Committee welcomes the reported increased access to primary and secondary education and the consequential increase in enrolment rates, as well as the reduction of the gender gap. However, the Committee is concerned that the quality of education available to students is decreasing, the access to adequate educational facilities for children in remote areas remains limited, the cost of education is often prohibitive, and the absence of training required for teachers is leading to low-quality teaching and to disparities in pre-school education. The insufficient bilingual education in English and I-Kiribati is also a cause of concern as it negatively impacts access to higher education, which is only available in English in neighbouring countries. The Committee regrets that aside from informal vocational training provided by national NGOs, there are no vocational or educational opportunities within or outside the formal school system.

The Committee recommends that the State party take measures, inter alia, by:

- (a) Increasing budgetary allocation to ensure access to free primary and quality education in all regions and to improve the physical infrastructure of educational facilities;**
- (b) Strengthening its efforts to bridge the gaps in the availability of education throughout the country, including the availability of school materials;**
- (c) Strengthening vocational programmes for children, including those who do not attend regular school;**
- (d) Improving the training and recruitment of teachers; and**

(e) Facilitating the use of new technology, including e-learning and blended learning.

8. Special protection measures(arts. 22, 30, 38, 39, 40, 37 b-d, 32-36)

Economic exploitation, including child labour

The Committee notes with concern that despite the legislation setting at 14 years the minimum age for admission to work, many children under the age of 14 work, primarily in the informal sector of the economy, either full-time, or outside school hours.

The Committee urges the State to strengthen measures to combat child labour. It recommends that the State party take steps to prevent child labour, including by:

Formulating, in a participatory manner, a strategy and plan of action to prevent child labour and eliminate the worst forms of child labour and to safeguard the rights of children who are legally allowed to work;

Strengthening the labour inspectorate to ensure the effective implementation of child labour laws, both in the formal and informal sectors;

Considering the ratification of ILO Convention No. 138 concerning Minimum Age for Admission to Employment (1973) and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and

Seeking assistance from ILO International Programme on the Elimination of Child Labour (IPEC) in this respect.

Sexual exploitation

The Committee is concerned at the reported increase in commercial sexual exploitation of children in Kiribati.

The Committee recommends that the State party take measures, including:

(a) Conducting a comprehensive study to assess the causes, nature and extent of commercial sexual exploitation of children and young people in Kiribati;

(b) Proceeding with plans to amend the Penal Code to make the exploitation of and trafficking in children criminal offences;

(c) Strengthening measures and adopting multidisciplinary and multi-sectoral approaches to prevent and combat sexual exploitation of children and adolescents;

(d) Undertaking awareness-raising campaigns, particularly for parents and children;

(e) Ensuring that children who have been subjected to sexual and economic exploitation are treated as victims and that perpetrators are brought to justice;

(f) Providing adequate programmes of assistance and social reintegration for sexually exploited children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children; and

(g) Collaborating with NGOs working on these issues and seeking technical assistance from, among others, UNICEF.

Street children

The Committee is concerned at reports that a number of children are selling goods in the street and are homeless. In view of the economic difficulties faced in Kiribati, the Committee is concerned that there is no systematic, comprehensive strategy to provide these children with adequate assistance.

The Committee recommends that the State party:

Undertake a study on the causes and scope of the situation of street children in Kiribati and develop a strategy with the aim of preventing and reducing this occurrence and protecting children;

Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, to support their full development; and

Ensure that these children are provided with rehabilitative and reintegration services, including psychosocial assistance for physical, sexual and substance abuse, as well as, where possible and when in the best interests of the child, services for reconciliation with their families.

Administration of juvenile justice

The Committee is concerned that there is no specific legislation on juvenile justice. It is also concerned at the serious practical shortcomings of the juvenile justice system and the inconsistencies that exist between various domestic laws and regulations. The Committee is further concerned that persons between 16 and 18 years of age are detained with adults. The lack of adequate

alternatives for pre-trial and other forms of detention and of guarantees for due process, and the poor living conditions faced by children detained in police stations or prisons are also issues of concern.

The Committee urges the State party to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), taking into account the recommendations adopted by the Committee on its day of general discussion on juvenile justice held on 13 November 1995 (CRC/C/46, paras. 203-238). In particular, the Committee recommends that the State party:

Developing specific and appropriate legislation on juvenile justice;

Ensure that due process is guaranteed, including the hearing by a judge before deprivation of liberty is carried out;

Develop and implement alternatives to pre-trial and other forms of detention in order to ensure that deprivation of liberty is really a measure of last resort for the shortest time possible, and when detained, ensure that persons under 18 are not detained with adults;

Develop and implement adequate socio-educational programmes and appropriate probation and parole arrangements for juvenile offenders;

Develop and implement responses from the ideas of restorative justice, including mediation, alternative dispute resolution and family conferencing;

Strengthen training on the Convention and other relevant standards for those responsible for administering juvenile justice; and

Seek assistance from, inter alia, the United Nations Interagency Panel on Juvenile Justice.

9. Optional Protocols to the Convention on the Rights of the Child

The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Follow-up and dissemination

Follow-up

The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the members of the Parliament for appropriate consideration and further action.

Dissemination

The Committee further recommends that the initial report, the written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

The Committee invites the State party to submit a consolidated second, third and fourth periodic report by 9 July 2011 (that is 18 months before the due date of the fourth report). This is an exceptional measure due to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.