



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture Seventy-eighth session

Summary record (partial)* of the 2048th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 7 November 2023, at 10 a.m.

Chair: Mr. Heller

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (continued)

Initial report of Kiribati (continued) (CAT/C/KIR/1)

1. *At the invitation of the Chair, the delegation of Kiribati joined the meeting via video link.*
2. **Ms. Racu** (Country Rapporteur) said that she wished to know what steps had been taken to combat sexual and gender-based violence and to educate law enforcement and judicial officials regarding those forms of violence, in particular domestic and intimate partner violence, with a focus on improving support and protection for victims. It would also be useful to know whether the Government planned to produce a follow-up to the 2011–2021 National Approach to Eliminating Sexual and Gender-based Violence in Kiribati and how it was implementing the Family Peace Act. She wondered how many cases of domestic violence had been prosecuted since the State party had acceded to the Convention.
3. The Committee would be interested to know what practical measures were in place to protect the rights of persons with disabilities – including mental impairment – in prison facilities and what treatment and medical care services were available for prisoners with mental health problems. It would be useful to learn what procedures were in place for handling children who came into conflict with the law and, in particular, whether any educational programmes or other alternatives to detention were available.
4. She would welcome information on the efforts made to prevent and eliminate trafficking in persons and on the services available for victims of trafficking and exploitation. It would also be useful to know whether medical professionals received training on reporting ill-treatment and torture in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).
5. The Committee would be grateful to learn what the State party was doing to improve the physical and material conditions in detention facilities. It would also welcome clarification as to whether convicted prisoners and persons held in pretrial detention were eligible for bail and whether juveniles were detained in the same facilities as adults. Furthermore, it wished to know what alternatives to detention were available for adults and whether all prisoners had access to complaints mechanisms.
6. It would be interesting to learn how many persons were serving life sentences. She also wished to know what disciplinary sanctions could be applied to prisoners, whether solitary confinement was used as a disciplinary measure and, if so, what its maximum duration was. She would welcome statistics on the capacity of each prison facility and of each cell within such facilities and on average living space per cell per prisoner. She would be grateful to learn what laws or internal regulations were in place to govern the segregation of prisoners. She would also be interested to know whether prisoners had access to the outside world, including in the form of education and employment opportunities and visits with family members and legal representatives, and whether such visits were supervised by correctional officers.
7. Lastly, the Committee would be grateful to learn whether non-governmental organizations (NGOs) operating in the field of human rights had access to places of detention, including social care homes, homes for older persons and prison and police facilities. She wondered whether the representatives of such organizations were permitted to speak in private with prisoners and whether they received training in monitoring human rights in places of detention.
8. **Mr. Buchwald** (Country Rapporteur) said that he would be curious to know how the Kiribati National Human Rights Task Force was funded, whether it received sufficient funding to perform its mandate and whether high staff turnover remained a problem. He also wondered what role the Task Force played in implementing the concluding observations issued by human rights treaty bodies. It would be interesting to learn what gaps existed between the mandate of the Task Force and that of a potential national human rights

institution, whether those gaps could be narrowed and what time frame would be required to do so. He wondered, for example, whether the State party would consider granting the Task Force a mandate to investigate allegations regarding abuse of persons deprived of liberty and to visit places of detention. As the non-responsiveness of stakeholders was a problem for the Task Force, it would be useful to know what steps had been taken to ensure that stakeholders responded to all requests for information submitted by the Task Force and, in particular, whether any legislation or administrative orders had been adopted to set out the obligations of government entities in that regard. No submissions had been received from civil society in advance of the current dialogue; he would be interested to know why that was the case and whether the Task Force had a mandate to provide independent assessments to treaty bodies.

9. He wished to know what steps the State party had taken to implement the recommendations contained in the letter, dated 20 December 2020, from the former United Nations High Commissioner for Human Rights in connection with the State party's third universal periodic review, in particular regarding the establishment of a genuine national human rights institution; the development of a comprehensive national human rights action plan; the ratification of relevant international human rights instruments, primarily the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights; the acceptance of the individual communications procedure under article 22 of the Convention; and the issuance of a standing invitation to all special procedures mandate holders of the Human Rights Council.

10. On the topic of legislation, article 7 (2) of the Constitution appeared to permit torture in certain circumstances, namely if the act had been lawful in the State party before the adoption of the Constitution. He would welcome further clarification in that regard. He would also be interested to learn what principles were applied by the courts when deciding whether customary or statutory law should take precedence. In addition, he wished to know in what circumstances a state of emergency could be declared and what safeguards were in place to prevent the misuse of the power to make such declarations.

11. While welcoming the information provided about situations of abuse in which the police could intervene under the Family Peace Act, he would be grateful to learn how the State party handled cases of abuse committed by persons with official status, such as police officers themselves. He wondered whether prisoners had the right to submit complaints regarding such treatment, whether they were actively made aware of that right and of the complaints mechanisms available to them, and how the State party ensured the independence of complaints mechanisms and the confidentiality of complaints.

12. The Committee wished to know whether the State party had taken steps to establish the jurisdiction of its courts over persons present in Kiribati who had committed offences under the Convention elsewhere. In addition, it would welcome information on the State party's plans to address acknowledged gaps in its services for victims of torture and on the challenges faced in that regard.

13. **A representative of Kiribati** said that a revised National Approach to Eliminating Sexual and Gender-based Violence in Kiribati had been produced to cover the period 2023–2032. It had five key strategic areas: strengthening the justice system; enhancing public engagement to tackle behaviours and attitudes that gave rise to sexual and gender-based violence, in cooperation with communities, NGOs and faith-based organizations; improving data collection and management in collaboration with key front-line service providers, such as the police, the Kiribati Women and Children Support Centre, the Ministry of Health and Medical Services and the Kiribati Crisis Centre; expanding capacity-building; and improving the response to gender-based violence.

14. The Family Peace Act was undergoing review, with the collaboration of various ministries. As the current year's funding for the review process had been exhausted, the Government would continue the process in 2024.

15. **A representative of Kiribati** said that the Ministry of Education had incorporated material designed to prevent sexual and gender-based violence in schools into lessons on morality, healthy living and social science. The International Fund for Agricultural

Development and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), among others, had provided support for that initiative.

16. **A representative of Kiribati** said that, owing to the poor state of the prisons, it was impossible to effectively segregate cells or buildings by sentence classification. Prisoners were allowed family visits every Sunday. Inmates had access to the outside world in the form of supervised visits to a clinic for a medical check-up or to the Office of the People's Lawyer for legal assistance. Under chapter 76 of the Prisons Ordinance, the four disciplinary sanctions were penal diet and confinement to the cell for a period not exceeding 4 days; loss of the right to a reduction in sentence, up to a maximum of 28 days; deprivation of privileges; and extra work not exceeding 1 hour per day for a period not exceeding 14 days. If enacted, the bill amending the Ordinance would abolish the use of penal diet and confinement to the cell as punishments. Two 2-person confinement cells were available in one of the prisons on Tarawa island and three such cells were available in the prison on Kiritimati; otherwise, all inmates of a given prison were housed in a single dormitory. As at November 2023, 23 prisoners were serving life sentences, mainly men between 30 and 60 years of age. None of the country's prisons had ramps, accessible toilets or other such accessibility features. While there were currently no inmates with disabilities, inclusion of such features in new prison buildings would therefore be a great improvement.

17. **Ms. Neeti** (Kiribati) said that the Government did everything it could to meet the needs of prisoners with disabilities. For instance, one former prisoner who had undergone a leg amputation as a result of his diabetes had been permitted to have his grandson stay in the prison with him to act as his caregiver.

18. There were currently no juveniles in prison in Kiribati. The Juvenile Justice Act was in the process of being revised; under the amended Act, the focus would be on non-custodial sentences, such as rehabilitation programmes.

19. **A representative of Kiribati** said that the Mental Health Act had been revised in 2022. A prisoner with a suspected mental illness would be taken for assessment outside the prison. If the mental illness was confirmed, the prisoner would either be admitted to the mental health facility under an involuntary treatment order or, if found to be treatable in the community, be returned to prison with the appropriate medication. In practice, such a situation had never arisen, although there had been instances of persons with mental illness being imprisoned for offences they had committed.

20. **A representative of Kiribati** said that when customary law came into conflict with statutory law, the latter prevailed.

21. Although trafficking in persons was not currently a problem in her country, it was criminalized under the Measures to Combat Terrorism and Transnational Organized Crime Act. In addition, the Government had taken other anti-trafficking measures: provisions in both the Fisheries Act 2010, as amended, and the Customs Act prohibited anyone from boarding a vessel without permission from the customs administration and enforcement authorities.

22. With a view to preventing gender-based and domestic violence, the Penal Code had been amended in 2017 to incorporate new offences and more severe penalties for all sexual offences. For instance, indecent assault now carried a 7-year rather than a 5-year custodial sentence. The Office of the Attorney General provided police prosecutors with assistance, such as training on the Family Peace Act, and help with prosecuting domestic violence cases. The Office did not collect disaggregated data on cases of gender-based and domestic violence but planned to start doing so, perhaps by compiling old data; however, it was constrained by a lack of resources. The establishment of a special facility for the separation of victims from perpetrators during family court hearings was also planned.

23. Murder, treason and instigation of invasion and piracy carried mandatory life sentences, while other offences carried discretionary life sentences. Although the Parole Board Act established periods during which parole could not be granted for given offences, judges had the discretion to impose longer or shorter such periods. The President had discretionary powers to reduce offenders' sentences or even to fully amnesty them.

24. Under the Juvenile Justice Act, offenders under 18 years of age could undergo the diversion process and be provided with community support services. However, a young person who committed a serious offence – currently defined as murder, attempted murder, manslaughter, rape, attempted rape, unlawful wounding, unlawful poisoning or causing grievous harm – must be given a custodial sentence. Under the Juvenile Justice Act, young offenders could not be imprisoned alongside adults, but Kiribati had no juvenile detention centre. Since it was increasingly common for young offenders to be involved in serious cases, it would be important to prioritize the building of such a centre.

25. Articles 21 to 23 of the Penal Code provided for the prosecution of perpetrators of, and accessories to, an offence as principal offenders. In addition, under articles 376 to 378, a person could be prosecuted for conspiracy to commit an offence even if he or she had not actually committed the offence, or, under articles 379 and 380, as an accessory to an offence after the fact. Those provisions applied to any person who participated in an offence, even if he or she had not been present at the time of the offence. All of the articles mentioned could be applied to offences amounting to acts of torture.

26. **A representative of Kiribati** said that medical personnel were trained to recognize and treat serious and life-threatening trauma. While no specific training was provided on the recognition and reporting of injuries from torture, any ill-treatment at the hands of medical staff was logged in incident reports and perpetrators were disciplined accordingly. The Government hoped to provide training on detecting signs of torture in the future.

27. **Ms. Neeti** (Kiribati) said that the Government was taking steps to upgrade existing prison infrastructure and to build new accommodation for inmates. Studies had been completed to that end and funding was currently being sought from external partners. Whereas previously the prison service had shared its budget with the police, it now had a separate budget.

28. Funding for the Human Rights Division of the Ministry of Justice, including the Kiribati National Human Rights Task Force, was limited and was not due to be increased for 2024. However, external partners such as the Human Rights and Social Development Division of the Pacific Community, the Office of the United Nations High Commissioner for Human Rights Regional Office for the Pacific and the United Nations Children's Fund (UNICEF) provided a degree of support for the Task Force.

29. **A representative of Kiribati** said that the Task Force reported to the Human Rights Division within the Ministry of Justice. It superseded the various bodies previously established to implement those human rights treaties to which Kiribati was party, namely the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. The limited funding for the Task Force made implementing the treaties rather difficult. The Task Force members did not have extensive knowledge of the treaties and required assistance from experts to analyse them in detail and determine how best to incorporate them into domestic legislation.

30. The Government's external partners encouraged and supported civil society organizations to provide shadow reports for review by the human rights treaty bodies. The Task Force assisted those organizations in drafting shadow reports but did not provide prescriptive advice, so as to avoid any conflict of interests.

31. The scope of the national human rights institution was currently being finalized. The Government planned to roll out a one-year pilot project to help it to understand what role such an institution might play in the longer term.

32. The accession of Kiribati to human rights treaties and optional protocols to those treaties must be endorsed by the Task Force and then approved by the Cabinet. The Government would consider ratifying further human rights treaties once the Task Force had improved implementation of those treaties to which Kiribati was already a party. The main obstacles for the Task Force were changes in membership and a lack of resources.

33. **Ms. Neeti** (Kiribati) said that since the Task Force comprised representatives from different ministries, staff turnover within those ministries sometimes affected its responsiveness. Every effort was made to promote cooperation among the representatives.

34. **The Chair** said that the Committee wished to thank the State party for its initial report and its enthusiastic participation in the constructive dialogue. It looked forward to continuing its fruitful cooperation with the State party. The Committee hoped that the State party would continue to take tangible steps to implement its recommendations.

35. **Ms. Neeti** (Kiribati) said that her delegation was grateful to the Committee for its insightful questions and comments. The constructive dialogue had helped the delegation to identify areas in which the laws and policies of Kiribati could be better aligned with the Convention and in which practical steps could be taken to implement it, for example by improving prison infrastructure and providing appropriate training for law enforcement and prison officers. The Government would make every effort to implement the Committee's recommendations and to secure the funding required to do so.

The discussion covered in the summary record ended at 11.55 a.m.