



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

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## Committee against Torture Seventy-eighth session

### Summary record of the 2047th meeting

Held at the Palais Wilson, Geneva, on Monday, 6 November 2023, at 10 a.m.

*Chair:* Mr. Touzé (Vice-Chair)

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*In the absence of Mr. Heller, Mr. Touzé (Vice-Chair) took the Chair.*

*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 (CAT/C/KIR/1)*

1. *At the invitation of the Chair, the delegation of Kiribati joined the meeting via video link.*
2. **Ms. Neeti** (Kiribati) said that, despite the obstacles posed by the size and geography of Kiribati, her Government had made a number of advancements in protecting human rights in the country, including its accession to the Convention in 2019. The Constitution provided for the protection of the fundamental rights and freedoms of the individual, while a whole series of laws provided for the prevention of torture and ill-treatment in specific contexts. For example, the Family Peace Act provided for the protection of victims of domestic violence; the Education Act provided for the abolishment of corporal punishment in all schools; the Juvenile Justice Act provided for the protection of children in conflict with the law; the Prisons Ordinance provided for the protection of inmates from ill-treatment by prison officers; the Police Service Act and the Police Powers and Duties Act provided for the protection of detainees from ill-treatment by the police; and the Mental Treatment Ordinance provided for the prevention of harm to patients in mental health facilities. Torture and ill-treatment were criminalized under the Penal Code.
3. The Government had collaborated with 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, the Commonwealth and the United Nations Children's Fund (UNICEF) to build the capacity of the Kiribati National Human Rights Task Force. Civil servants had received specific training on the Convention in the course of 2023.
4. **Ms. Racu** (Country Rapporteur) said that the State party's achievement in being the first Pacific island State to submit its initial report under the Convention was all the more impressive given the obstacles that it faced, not least in relation to climate change. It was important that the State party should submit its subsequent reports on time so that the Committee could assess its implementation of the Convention.
5. In the light of reports of substandard hygiene, ventilation and food quality in prisons, she wished to know what steps the State party was taking to improve detention conditions, promote alternative sentencing and resolve issues related to prison infrastructure. In that regard, she would welcome information on the conditions in which women were imprisoned or held in pretrial detention. Likewise, she would appreciate data on prison capacity rates, the average number of prisoners per cell and the average amount of living space per prisoner. It would be useful to know what factors the State party took into account when placing prisoners, and whether inmates had access to medical treatment and education and employment opportunities. She was eager to know what disciplinary measures could be taken against prisoners, whether those measures could be appealed and reviewed, how frequently solitary confinement was used and what the maximum duration of such confinement was. Furthermore, it would be interesting to know whether prisons had qualified medical personnel, whether prison officers and law enforcement personnel received training on the prevention of torture and ill-treatment and, if so, what impact that training had had in practice. The Penal Code provided for life sentences for a large number of offences, including murder, rape, manslaughter and robbery, but did not specify whether such sentences could be handed down to persons aged under 18 years. She would be grateful for clarification in that regard, as well as for information on the detention arrangements for inmates serving life sentences and the number of such inmates, disaggregated by age, sex and other relevant indicators.
6. While she appreciated the information provided on the State party's efforts to prevent domestic and gender-based violence and to protect victims, she wished to know how many complaints of such violence had been lodged, whether those complaints had been investigated and whether the perpetrators had been brought to justice. It would be helpful to know whether rehabilitation services were provided to victims of domestic and gender-based

violence, and whether law enforcement and judicial officers received training on how to deal with cases thereof.

7. She would welcome further information on children in conflict with the law. In particular, given reports of high conviction rates among minors, she was keen to know whether national legislation made particular provision for the detention of minors and whether alternative sentences were available for them.

8. **Mr. Buchwald** (Country Rapporteur) said he hoped that the State party's accession to the Convention would encourage other Pacific island States to follow suit, and that the constructive dialogue would help to identify the obstacles that the State party faced in implementing the Convention and the practical steps that it was taking to overcome them. He would be interested to hear how entrenched patterns and practices, in particular patriarchal attitudes, affected the implementation of the Convention and how the State party planned to address them.

9. The Committee encouraged the State party to establish torture as a specific offence, with a definition consistent with that provided in the Convention. Doing so would not only underline the gravity of that offence and the State party's determination to combat it, but would also make it easier to single out torture for the special treatment required under the Convention. Although it was possible to prosecute an official who had committed torture under legislation that criminalized, for example, abuse of authority, the latter offence would not have the same gravity or generate public debate or awareness of the need to combat such conduct.

10. He would be grateful for any information about the expected timetable for incorporation of such a definition and about any particular problems with the process that the Government anticipated.

11. Given that the courts were required to take into account unwritten customary law, he would be interested to learn about any conflict between such customary law, on the one hand, and the Constitution, statutory law or international treaties, on the other. He wondered how the requirement, in criminal cases, for customary law to be taken into account in decisions on the reasonableness of an act or the legitimacy of an excuse was compatible with the requirement under article 2 (2) of the Convention for "no exceptional circumstances whatsoever" to be invoked as justification for an act of torture.

12. It would be useful to know whether any standards or criteria were in place governing the situations – other than war – in which the President could declare a period of public emergency, within the meaning of article 16 of the Constitution, since during such periods the State party was permitted to derogate from individuals' fundamental rights and freedoms. He would appreciate any tangible examples – apart from the coronavirus disease (COVID-19) pandemic – of past situations in which periods of public emergency had been declared. Article 7 (a) of the Constitution prohibited torture but article 7 (b) removed from the scope of that provision anything that had been lawful before the Constitution's entry into force, which suggested that detainees and others enjoyed no protection against torture. More information on that issue would be helpful, as would the delegation's views on whether the issue could or would be addressed. He would like to hear the delegation's comments on the fact that, by allowing derogation from its own rules prohibiting discrimination, article 15 of the Constitution was violating international human rights norms. Since discrimination on the basis of sex, sexual orientation or gender identity were not included in the definition contained in article 15 (3) of the Constitution, he wished to know what steps the Government had taken and planned to take to remedy that omission, as well as any steps it was refraining from taking in order to avoid social upheaval. He was keen to hear the background to article 15 (9) (a) of the Constitution, under which discrimination on the basis of statutory or customary laws predating the Constitution appeared to be permissible.

13. Details would be useful regarding the measures set out in the Standing Order and Procedure that the Kiribati Police Service must take when arresting and detaining people; the measures set out in chapter 76 of the Prisons Ordinance, on preventing torture in prison and punishing its perpetrators; and the progressive penalties for police officers set out in the Police Service Act. He was eager to know whether the Police Powers and Duties Act established guarantees that before suspects were charged, they were told of the reason for

their arrest and informed of their right to legal counsel, including during an interrogation, and their right not to answer questions without prior legal advice. Likewise, he would like to know whether, under the same Act, the police must provide an interpreter and inform suspects of their rights immediately upon their detention. He would also be grateful for information on how and under what circumstances the Government provided legal aid for suspects who needed it. He would welcome information about any legal guarantee existing in the State party that evidence obtained through torture or abuse would be inadmissible in court and about the practical effectiveness of any such guarantee. He wondered about the extent to which records were kept, in relation to all persons in custody, of the time, duration and location of arrest; of the name of the person responsible for the detainee; and of the time, place and attendees of all interviews with suspects; and whether such records were readily accessible. He wished to know whether detainees were entitled to an independent medical examination. He would appreciate any information about the number of, and the follow-up given to, reports of deaths in custody. He would like to know the degree to which the State party prioritized data collection.

14. He was curious about the State party's overall strategies for working with international partners and for selecting priority human rights commitments. Lastly, he wished to know what kinds of project the State party considered to be most in need of international support and assistance and what steps, if any, it had taken to channel such support into those projects.

*The meeting was suspended at 10.55 a.m. and resumed at 11.05 a.m.*

15. **Ms. Neeti** (Kiribati) said that, with a view to resolving the problems of poor ventilation and overcrowding in prisons, the Government was seeking funding for the replacement of the country's decades-old cell blocks. A review of chapter 76 of the Prisons Ordinance was planned, with a bill due to be put before the parliament in 2024. Since prisons had no medical officers, inmates who were ill or required a check-up were either taken to the hospital or visited by a health-care professional in the prison.

16. **A representative of Kiribati**, detailing the general principles for the treatment of prisoners laid out in the Prison Standing Order, said that one of the prisons on Tarawa currently held 38 convicts and 2 persons on remand and the other on that island held 6 inmates, while the prison on Kiritimati housed 9 individuals. All current inmates in all three of the country's prisons were male. The Government lacked the expertise to give prison staff specific training on subjects such as methods of controlling or securing inmates and handling prisoners with mental health problems; the only training provided was on the Prison Standing Order and on maintaining discipline.

17. **A representative of Kiribati** said that anyone resident on an island other than Tarawa or Kiritimati who was given a custodial sentence had to be transferred to one of those two islands to serve his or her sentence. The courts had a legal duty to inspect prisons. In one instance, in an attempt to uphold torture prevention standards, a court had visited the prison on Kiritimati before sentencing a woman of advanced years who had been convicted of involvement in a rape. Following the inspection, it had imposed a suspended sentence on her because the conditions in the prison were not adequate for a woman of her age.

18. **A representative of Kiribati** said that two thirds of women and girls aged between 15 and 49 years had experienced sexual abuse by their intimate partners. SafeNet was a programme on which many bodies – including the Ministry of Health and Medical Services, the Kiribati Police Service and the Social Welfare Division – worked together to address gender-based and domestic violence cases, including in the outer islands. Services provided to survivors included counselling, the serving of court orders and refuge at the Kiribati Crisis Centre. Through SafeNet, police officers and prosecutors were given training on their roles and responsibilities in relation to gender-based and domestic violence under the Family Peace Act. Community-level programmes were also conducted with a view to tackling gender-based and domestic violence, one example being the Strengthening Peaceful Villages programme.

19. **A representative of Kiribati** said that, in her capacity as acting Attorney General, she considered it very important to include a specific definition of torture in her country's

legal system, in order that the Government should be able to identify and analyse acts of torture, as distinct from other offences.

20. Certain aspects of customary law conflicted with the provisions of domestic legislation. In some cases, the Government had to intervene and discuss matters with villagers who were intent on enacting a customary punishment against community members who had transgressed customary norms. The application of customary law could lead to a reduced sentence in cases where the perpetrator offered an apology which was accepted by the victim or the victim's family, a scenario that courts took into account as a mitigating factor.

21. **A representative of Kiribati** said that, pursuant to article 16 (2) of the Constitution, an Order of Public Emergency had been issued by the Office of the President as part of the country's response to the COVID-19 pandemic. Such Orders, which must be signed by the Head of State, must set out the start and end date of the period covered by the Order, the type of emergency concerned and the particular measures to be taken by the authorities and the law enforcement agencies. The pandemic-related Order had also contained details of quarantine measures and how they would be enforced, as well as provisions relating to the spreading of false information, which was a criminal offence.

22. **A representative of Kiribati** said that the National Health Strategy for 2020–2023 was designed to improve health protection, empower communities and address environmental health issues, including those related to climate change. The Ministry of Health had deployed an emergency medical team in 2018 in the aftermath of a maritime disaster and again between 2019 and 2021 to respond to the COVID-19 pandemic. With support from the World Health Organization, the Ministry had established the Kiribati Medical Assistance Team (KIRIMAT). The Team, which was comprised of 32 doctors, nurses and environmental health and other specialists, had launched in November 2022 after completion of a training programme and stood ready to respond to any disaster or disease outbreak.

23. **A representative of Kiribati** said that article 3 of the Constitution listed sex as one of the prohibited grounds for discrimination.

24. The Family Peace Act regulated the use of Police Safety Orders, which were imposed when victims of domestic violence faced an immediate risk of harm. Such Orders covered a maximum period of up to 14 days, to allow time for police officers to apply to the courts for an Emergency Protection Order. Any complaints of domestic violence must be investigated within a reasonable time and the related cases must be prioritized by the courts. The Standing Order and Procedure set out the guidelines for the role and duties of the Police Service in handling cases. Under article 92 of the Police Powers and Duties Act, police officers must inform a person of the reason for his or her arrest as soon as was reasonably practicable. Pursuant to article 108 of the same Act, arrested persons could remain in police custody for a maximum of 24 hours, increasing to 72 hours if the arrest occurred after the courts closed on a Friday afternoon. Under article 106 of the Code of Criminal Procedure, conditional bail could be granted for all offences except murder and treason.

25. **A representative of Kiribati** said that the number of children convicted of offences had ranged from 510 to 589 per year between 2019 and 2022.

26. When a person was arrested, he or she was informed of his or her right to remain silent and to receive the assistance of a lawyer and, where necessary, an interpreter. Free legal aid was provided to anyone who was unable to afford the services of a lawyer. Detainees were provided with food and drink and were afforded the opportunity to make telephone calls to their lawyer and to their family while they remained in police custody. Complaints of mistreatment by police officers were submitted to the Professional Standards Unit for investigation. Awareness of the need to curb police misconduct had grown following a case in the mid-2000s in which a police officer had been dismissed for using hot water to scald a detainee who had insulted him.

27. **A representative of Kiribati** said that, with regard to the priorities in seeking assistance from international development partners, the Government's first aim was to complete a legal and technical analysis of the country's legislation with a view to identifying any gaps in its compliance with the Convention. Secondly, the Government sought to put in

place a framework through which to ensure that Kiribati achieved those of the Sustainable Development Goals that were related to the Convention. Thirdly, there was a need for funding to enable the Convention to be translated into the national language and disseminated to all relevant stakeholders. As the first Pacific island State to submit a report under the Convention, Kiribati wished to set an example for other island nations in the region.

*The meeting rose at noon.*