



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

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Committee against Torture

Concluding observations on the initial report of Kiribati*

1. The Committee considered the initial report of Kiribati¹ at its 2047th and 2048th meetings,² held on 6 and 7 November 2023, and adopted the following concluding observations at its 2065th meeting, held on 20 November 2023.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, along with the supplementary information provided during its consideration.

3. While noting that the report was submitted three years late, the Committee appreciates having had the opportunity to engage in a constructive dialogue with the delegation of the State party and the responses provided to the questions and concerns raised during the consideration of the initial report.

B. Positive aspects

4. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including:

- (a) The amendment, in 2019, of the Prisons Ordinance (chap. 76) of 1977;
- (b) The amendment, in 2019, of the Police Powers and Duties Act of 2008.

5. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection to human rights and to apply the Convention, in particular:

- (a) The adoption of the national policy and action plan to eliminate sexual and gender-based violence for the periods 2011–2021 and 2023–2032;
- (b) The drafting of the 2023 bill amending the Prisons Ordinance;
- (c) The Kiribati Police Service Standing Order and Procedure of 2006;
- (d) The Kiribati Police Service Domestic Violence and Sexual Offence Standing Orders and Procedures.

* Adopted by the Committee at its seventy-eighth session (30 October–24 November 2023).

¹ CAT/C/KIR/1.

² See CAT/C/SR.2047 and CAT/C/SR.2048.



C. Principal subjects of concern and recommendations

Incorporation of Convention obligations into domestic law

6. Notwithstanding the fact that torture is prohibited pursuant to section 7 (1) of the Constitution, the Committee is concerned that the State party has not yet incorporated into its criminal legislation the obligations under the Convention, including a definition of the crime of torture that is in line with article 1 of the Convention and substantive provisions that ensure compliance with all of the Convention's substantive requirements, including the obligation to make acts of torture punishable by appropriate penalties which take into account their grave nature, as provided in article 4 (2) of the Convention. The Committee is also concerned that article 7 (2) of the Constitution appears to suggest the existence of an exception to the absolute prohibition against torture insofar as the conduct may have been lawful in Kiribati before the Constitution entered into force (arts. 1 and 4).

7. The Committee urges the State party to incorporate into its national legislation a definition of the crime of torture that is in line with article 1 of the Convention and to adopt other legislation to ensure compliance with all of the Convention's substantive requirements, including the requirement to make the crime of torture punishable by appropriate penalties which take into account its grave nature. The Committee also urges the State party to ensure that there are no mitigating circumstances or any other exceptions, including non-applicability of statutes of limitation, to the absolute prohibition against torture.

Fundamental legal safeguards

8. While taking into account the procedural safeguards set forth in domestic legislation, the Committee is concerned about the scarcity of information provided on the measures and procedures in place to ensure that, in practice, detained persons enjoy all fundamental legal safeguards from the very outset of deprivation of liberty. Those safeguards include the right of detained persons to be informed immediately of the reasons for their arrest and of the charges against them, to be assisted by a lawyer, to request and receive an independent medical examination, to immediately notify a relative or a person of their choice of their detention and whereabouts, to be brought before a judge without delay and to have effective remedies for challenging the lawfulness of their detention (art. 2).

9. The State party should ensure that all persons who are arrested are afforded, in law and in practice, all fundamental legal safeguards against torture from the very outset of their deprivation of liberty. That includes the rights to be informed of the reason for their arrest and the charges against them, to be assisted by a lawyer, without delay, particularly during the investigation and interrogation stages, and, if applicable, be provided with free legal aid, to request and receive an independent medical examination, to immediately notify a family member or any other person of their choice of their detention and whereabouts, to be brought before a judge without delay, and to have effective remedies for challenging the lawfulness of their detention.

Sexual and gender-based violence

10. While welcoming the measures taken to combat sexual and gender-based violence, including domestic violence, the Committee remains concerned at the high incidence of violence against women and girls in the country. In this regard, it notes the replies provided by the State party's delegation according to which specific training was provided to police officers and prosecutors to strengthen their roles under the Family Peace Act. The Committee also notes the State party's assurances that victims receive the quality services they need (arts. 2, 12 and 16). The Committee also recalls the recommendations made in 2020 by the Committee on the Elimination of Discrimination against Women.³

11. The State party should strengthen its efforts to prevent and combat sexual and gender-based violence by, inter alia, ensuring that all cases of sexual and gender-based violence, especially those involving actions or omissions by State authorities or other

³ CEDAW/C/KIR/CO/1-3, paras. 29 and 30.

entities which engage the international responsibility of the State party under the Convention, are thoroughly investigated, including in the absence of a complaint, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims receive redress and rehabilitation, including adequate compensation, and have access to legal assistance, safe shelters and the necessary medical care and psychosocial support. The Committee also recommends that the State party provide mandatory training on the prosecution of sexual and gender-based violence to all justice officials and law enforcement personnel and that it increase its efforts in education and outreach to the general public regarding sexual and gender-based violence. The Committee further recommends that the State party continue to review the legislation applicable to sexual and gender-based violence, so as to afford the broadest protection possible to victims and others at risk of victimization, and that it take tangible steps to address entrenched patterns and practices that may contribute to such violence.

Customary law and domestic application of the Convention

12. While welcoming the explanations of the State party's delegation regarding the importance of customary law, the Committee is concerned about the lack of clarity regarding possible conflicts between customary law, on the one hand, and statutory law and common law, on the other hand, and about the effects any such conflicts might have on compliance with the provisions of the Convention (art. 2).

13. **The State party should take appropriate steps to ensure that there is no possibility that exceptions to the absolute prohibition against the crime of torture under the Convention would be recognized.**

Conditions of detention

14. The Committee notes the measures taken by the State party to improve detention conditions and to monitor occupancy levels in prisons so that capacity is not exceeded, including the drafting of the 2023 bill amending the Prisons Ordinance. However, the Committee remains concerned about the information contained in the State party's initial report about poor conditions of detention, overcrowding, limited ventilation and the lack of adequate food. It also regrets that there is insufficient effective separation of detainees (arts. 2, 11 and 16).

15. **The Committee urges the State party:**

(a) **To intensify its efforts to improve conditions of detention and alleviate overcrowding in penitentiary institutions, including through the application of non-custodial measures. In that connection, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **To guarantee that the basic needs of persons deprived of their liberty are satisfied, including with regard to food, ventilation, hygiene and sanitation, and health care, in accordance with rules 12 to 35 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(c) **To ensure that pretrial detainees are separated from convicted prisoners, including in women's prisons, and that in all places of detention, minors are separated from adults;**

(d) **To provide specific budget projections for the policy on prison reform and implementing plans for the construction, remodelling and expansion of detention centres while ensuring that hygiene and health conditions, food supplies and access to drinking water are adequate, including by continuing its work with international partners to identify and address areas of priority concern, as appropriate;**

(e) **To ensure that there are sufficient suitable medical personnel, materials and medicines and that detainees have access to a medical examination as soon as possible after entry into the facility and as often as necessary thereafter so that health needs, infectious diseases and possible cases of ill-treatment can be identified;**

(f) **To increase detainees' access to rehabilitation and social reintegration programmes.**

Solitary confinement

16. The Committee is concerned that, under section 6 of the Prison Standing Orders, solitary confinement can be imposed as a disciplinary sanction for inmates who repeatedly violate the established rules and procedures for serving a sentence. It notes with concern that minors can also be subjected to solitary confinement for up to 72 hours (arts. 2, 11 and 16).

17. **The State party is urged:**

(a) **To bring its legislation and practice on solitary confinement into line with international standards, particularly rules 43 to 46 of the Nelson Mandela Rules, and to use solitary confinement only in exceptional cases as a last resort, for as short a time as possible (no more than 15 days) and subject to independent review, only upon authorization by a competent official;**

(b) **Not to use solitary confinement as a disciplinary measure against juveniles, in accordance with rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

Juvenile justice

18. The Committee notes that there are currently no juvenile prisoners and the various measures taken by the State party, including the amendment of the Juvenile Justice Act, to improve the situation of children in conflict with the law. Nevertheless, it remains concerned that it remains possible to incarcerate minors in adult prisons.

19. **The State party should proceed with efforts to bring its juvenile justice system fully into line with the Convention and other relevant international standards and should take appropriate steps to avoid the possibility of minors being incarcerated with adults.**

Complaint mechanisms

20. While welcoming the steps taken by the State party under section 67 (6) of the Prisons Ordinance to enable inmates to make complaints to visiting justices,⁴ it appears that there are still no effective, independent and confidential mechanisms for the receipt of complaints of torture or ill-treatment in all places of deprivation of liberty. Many persons who are deprived of their liberty may experience difficulties or may be reluctant to lodge complaints about torture or ill-treatment (arts. 2, 12, 13 and 16).

21. **The State party should take the measures necessary to strengthen the existing complaint mechanisms, including by ensuring confidential and unhindered access to such mechanisms in complete privacy and by ensuring that complainants are protected against any intimidation or reprisals as a consequence of their complaints.**

Investigation and prosecution of acts of torture and ill-treatment

22. The Committee acknowledges the efforts made by the State to prevent and combat cases of torture and ill-treatment. Nevertheless, it is concerned that it has not been possible to obtain comprehensive information on the number of cases that have resulted in investigations and prosecutions or disciplinary action against law enforcement officers and other public officials (arts. 2, 12, 13 and 16).

23. **The State party should:**

(a) **Carry out prompt, impartial and effective investigations into all allegations of torture and ill-treatment, including excessive use of force by law enforcement officials, and ensure that those suspected of having committed such acts**

⁴ CAT/C/KIR/1, para. 114.

are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

(b) Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims are afforded appropriate redress and rehabilitation in a timely manner;

(c) Ensure that detainees are provided with access to professional and confidential medical assistance, that all injuries sustained by detainees are meticulously recorded in specially designated registers and that all relevant staff, including medical personnel, prosecutors and judges, are specifically trained to identify, document and investigate cases of torture and ill-treatment, in accordance with the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(d) Compile and publish statistics on the number of investigations and prosecutions carried out, convictions handed down and penalties imposed in cases of torture or ill-treatment.

Monitoring of detention facilities

24. While noting the information provided by the State party regarding the responsibilities of the Kiribati National Human Rights Taskforce and noting also that the State party cooperates with the International Committee of the Red Cross, the Committee is concerned at the lack of systematic oversight of places of detention (arts. 2, 11 and 16).

25. **The State party should:**

(a) Establish an effective, independent national system to monitor and inspect all places of deprivation of liberty and follow up on the outcome of such systematic monitoring;

(b) Ensure that monitoring bodies, including non-governmental organizations, with a mandate to visit places of deprivation of liberty are able to carry out independent, unhindered and unannounced inspection visits to all places of deprivation of liberty in the country and to speak confidentially to all detained persons;

(c) Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

National human rights institution

26. While taking note of the information provided by the State party regarding the mandate and functions of the Kiribati National Human Rights Task Force and the resource constraints under which the State party operates, the Committee regrets that the State party has not yet established a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

27. **The Committee recommends that the State party consider establishing an independent national human rights institution, in accordance with the Paris Principles, with a mandate that includes the promotion and protection of the rights enshrined in the Convention.**

Training

28. While welcoming the training courses that the State party provided for its officials on the Convention, including on gender-based violence, before it ratified the Convention, the Committee is concerned about the lack of specific training programmes on the provisions of the Convention for law enforcement officers, prison personnel and other public officials, including the lack of training on the contents of the revised version of the Istanbul Protocol (art. 10).

29. **The State party should:**

(a) **Develop mandatory initial and in-service training programmes to ensure that all public officials, in particular law enforcement officers and prison staff, are acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are made fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, if convicted, appropriately punished;**

(b) **Ensure that all relevant staff, including judges, prosecutors and medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the revised version of the Istanbul Protocol;**

(c) **Develop and apply a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts and the prosecution of those responsible.**

Data collection

30. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment perpetrated by law enforcement and prison personnel, as well as on deaths in custody, extrajudicial killings and sexual and gender-based violence, including domestic violence. It underscores the invaluable contribution that enhancing the State party's capability to compile and analyse such information can make to the effective implementation of the State party's obligations under the Convention.

31. **The State party should redouble its efforts and prioritize the compilation of statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions relating to cases of torture and ill-treatment, deaths in custody, sexual and gender-based violence, including domestic violence, working with international partners, as needed, to enhance its capabilities in this regard.**

Follow-up procedure

32. **The Committee requests the State party to provide, by 24 November 2024, information on follow-up to the Committee's recommendations on the incorporation of Convention obligations into domestic law, monitoring of detention facilities and training (see paras 7, 25 and 29 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

Other issues

33. **The Committee recommends that the State party consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as soon as possible.**

34. **The Committee encourages the State party to consider making the declaration under article 22 of the Convention recognizing the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by the State party of the provisions of the Convention.**

35. **The Committee invites the State party to issue a standing invitation to the special procedure mandate holders of the Human Rights Council and, as the High Commissioner recommended in her letter of 4 December 2020, to develop a comprehensive national human rights action plan.⁵**

⁵ See https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session35/KI/HCLetter-Kiribati_EN.pdf.

36. The Committee invites the State party to consider ratifying the core United Nations human rights treaties to which it is not yet a party, namely the International Covenant on Civil and Political Rights.

37. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

38. The Committee requests the State party to submit its next periodic report, which will be its second periodic report, by 24 November 2027. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its second periodic report under article 19 of the Convention. The Committee urges the State party to submit that report in a timely fashion.
