

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY KIRIBATI

ARTICLE 7, PARAGRAPH 4 UNCAC

CONFLICT OF INTEREST

KIRIBATI (NINTH MEETING)

KIRIBATI INPUTS TO ARTICLE 7 PARA 4 (Prevent and Manage Conflict of Interests) AND ARTICLE 8 PARA 4 (Asset and Interest Disclosure System) OF THE UNCAC

I - Information requested from States parties in relation to preventing and managing conflicts of interest (art. 7, para. 4)

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Information sought may include: • Description of specific conflict of interest standard(s), indicating if these standards:

There are primary legislations and policies been adopted by the Government of Kiribati that give effects to the resolution of promoting transparency and preventing conflicts of interest. These legislations/policies, however, are partially conformed to the fundamental principles that govern the implementation of article 7 paragraph 4 of the United Nations Convention Against Corruption (UNCAC).

Listed below are relevant legislations and policies that apply the notion of article 7 paragraph 4 of the UNCAC.

- Leaders code of conduct 2016 Act, Employment and Industrial Relations Code 2015, Internal Revenue Board Act 1990, Proceed of Crime Act, Penal Code, Police Powers and Duties Act, Custom Act, Procurement Act, State Owned Enterprises Act, Police Service Act, Phoenix Islands Protected Area Trust Funds Act, National Condition of Service, Statistics Ordinance, Communication and Access to Information Strategy, Draft Anti-Corruption Code of Conduct Law Society Code of Conduct, Ethics – practice

- Are publicized widely;

- As a sovereign and democratic nation, everyone are free to access any of these legislations and policies from Government entities provided the use of it does not make any detriment to the Government. These policies/legislations can easily accessed at all Government Ministries website as well as through browsing the PACLI website – Pacific Islands Legal Information Institute
- Induction program to new recruits

- Regulate the outside activities of public officials;

- The National Condition of Service (NCS D.16) has a provision that prohibit the engagement of civil servants to undertake any private employment, businesses, trade or commercial activities while being employed by the Government. This provision does not allow public servants to put themselves in a position where their personal interests conflict with their responsibilities at the Government.

- Government is yet to legalize the Anti-Corruption Code of Conduct which one of the component of this code is speaking about the avoidance of conflict of interest within the public service. This code of conduct is currently under review by the Office of the Attorney General and expected to be completed and adopted before end of this year.

- Prohibit the holding by public officials of certain types of assets or positions in legal entities that are incompatible with their primary functions, such as an individual sitting on the board of a company;

- Section 17(3) (a) of the State Owned Enterprises Act provides that no more than one employee of a Ministry or Government Department is eligible to hold office as a Director of a State Owned Enterprises, if that Ministry or Department is accountable to the responsible Minister, other than the Minister of Finance. This section was introduced in 2016 to facilitate the restriction of a maximum of one employee of a Ministry or government department that is accountable to the Minister other than the Minister of Finance to be eligible to hold office as director to State Owned Enterprises that is accountable to the said Ministry.

- Limit the official actions a public official may take because of a conflict of interest;

There is no specific policy/legislation on conflict of interest, however, there are relevant provisions in legislation/policy that speak about conflict of interest as noted below:

- Section 9 of the Leaders Code of Conduct 2016, speaks that a leader who knows or has reason to suspect that he may face a possible conflict of interest on any matter, must declare such conflict of interest to appropriate authority.

- In terms of recruitment, the government recruitment policy does not really says that civil servant who form part the selection panel for Government vacancies should declare conflict of interest if that civil servant has a close relatives or friends and in-laws among the candidates. However, it's a practice that when the Public Service Commissioner believed that if any of the panellist has a close friends/relatives among the candidate, the Commissioner has the power to remove that panellist from the panel.

- Section 18(1) of the Phoenix Islands Protected Area Trust Funds Act constitutes that whenever there is a reasonably foresee that any Director or a member of such Director's immediate family, may benefit or suffer loss financially from any decision to be made by the Board on any matter, the Director must disclose the material facts as to the Director's interest, including the nature and extent of the Director interest to the Board. Section 18(2) extensively regulates that if the Board determines, excluding the vote of the disclosing Director for the purposes of such determinations, that such Director interest constitutes a conflict of interest or a conflict with the objectives of the Trust, and the disclosing Director must abstain from any vote related to such matter.

- The Communication Acts explicitly underlined in Section 10 that it is the duty of members of the Communications Commission of Kiribati to disclose conflict of interest to the Commission whenever necessary.

- The Police Service Act reflects that the establishment of the disciplinary board must be constituted by the written order of the Commissioner of Police. The commissioner shall not appoint a member who has any interest that may conflict with a fair and impartial hearing of the charges made against the accused officer.

- The Employment and Industrial Relations Code 2015 provides that a Labour inspector during the course of his inspection shall not have any direct or indirect interest in a workplace that is under his or her supervision.
 - Section 11(1) of the Internal Revenue Act provides that a member of the Board or any person invited to attend a meeting of the Board under Section 9(7), who is in any way directly or indirectly interested in any matter (whether pecuniary or otherwise) that falls to be considered by the Board shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.
 - The draft Anti-Corruption Code of Conduct for public service has a provision that prohibit civil servants from performing activities that may possibly conflict with their responsibilities at the Government.
- Apply criminal, administrative or other sanctions where public officials do not comply with applicable conflicts of interest regulations;
 - If criminal proceeding is instituted due to non-conformity of the civil servant, no disciplinary charges may imposed on any grounds until the conclusion of the criminal proceedings and judgement has been given (Section D.30 of the National Condition of Service). If civil servant found guilty as a result of the court hearing, the disciplinary actions shall apply.
 - Any person who contravenes provisions of legislations commits an offence and shall be liable upon conviction to imprisonment or a fine or it can be both such fine and imprisonment. The amount of fine and imprisonment varied differently depending on the court judgement.
 - Description of training or advisory services to public officials regarding relevant conflicts of interest regulations;
 - The Public Service Office through its National Customer Service and Improvement Centre has the responsibility of educating civil servants the customer service standards, standard of behaviour, anti-corruption code, regulations, general instructions and other new code of ethics/standards introduced by government from time to time. This advisory services usually conducted on a quarterly schedule as a drill to all of the Public Service Office counterparts.
 - Description of public access to information on government processes in which there is a higher risk of conflict of interest between the interests and activities of a public official and the particular type of government process;
 - Kiribati constitution recognises the protection of freedom of expression as noted in section 12. Section 12 expresses that, no person shall be hindered in the enjoyment of his freedom of expression which includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.

- The provision of the Broadcasting Publication Authority Act affirms that public interests should be served. In doing so, the Authority shall have regard to the needs of the public to be well, currently and fully informed of all matters of public interest.
- Section 9 of the Statistics Ordinance provides that where in the collection of statistical information relating to any matter set out in Schedule 1 the Government Statistician is of opinion that there can be obtained from any Government records or documents or from any records or documents belonging to any local authority information sought in respect of such matter, any person who has the custody of any such record or document shall grant access thereto to the Government Statistician or any authorised officer.
- The Office of the President Policy on Communication and Access to Information strategy was developed to organize, initiate and to provide innovative solutions in publicizing government information to target audiences as widely as possible.
- Description of the specific duties and responsibilities of the specialized staff or bodies given responsibility to strengthen transparency and prevent conflicts of interest in government;
 - Public Service Inspectorate, Integrity and Corruption Control Office, Kiribati Audit Office, National Anti-Corruption Committee and Police office are mandated by Government to ensure zero tolerance of corruption. These authorities responsible for the public service auditing to ensure compliance against government policies.
 - Citizens also played an important role in the fight against corruption as Government empowered them to report any suspicious corruption such as conflict of interest.
 - Leadership Commission was born out following the enactment of Leaders Code of Conduct 2016 which was mandated to assess, investigate and report on all investigation outcomes of corruption held against individual leader or leaders.
 - Anti-Corruption Select Committee was established by Parliament purposely for the interrogation of any alleged corrupt act or abuse of power by any leader for his or her benefit or for the benefit of any person or company with whom the leader has any connection. Leader defined as in the scope of this committee is meant for current and former parliamentarians as well as current and former Secretaries to Government Ministries, current and former Chief Executive Officers in State Owned Enterprises and current and former Directors of State Owned Enterprises and other Public Officers or State Owned Enterprises Staff that the committee believe to have been involved in corrupt practices.
- - Description of the institutional structure and procedures to oversee the compliance with conflict of interest legislation and apply respective sanctions.
 - The Public Service Office is responsible for the public service auditing which was usually conducted to all government entities on a quarterly schedule and on surprise inspection. The purpose of this auditing is to ensure all government entities are fully complied with the standards (standard of behaviour, code of conduct, anti-corruption code, customer service standard etc. .) being adopted by Government. Any breaching or violation against those standards/code shall be subject to disciplinary actions.
 - Once corruption report, the Anti-corruption unit will evaluate the claim and if it needed will be reported to Police authorities for investigation. A penalty appropriate to the crime will take place if the claim is found to be valid. If the anti-corruption feels that the person

or department is reported is in need of education and prevention, the anti-corruption unit will work directly with the department/person who was reported rather than involve the police authorities.

- In the event where the leader have violated provisions of the Leaders Code of Conduct, the Leadership Commission shall apply measures or punishment relevant to the weight of such violation act that is fair and necessary to do justice and restore public confidence. These would include forfeiture of gains, restrain order, oral or written warnings or reprimand, suspension or removal from office in accordance with applicable laws and contract of employment.

- Description of the measures aimed at preventing conflicts of interest concerning former public officials in private entities, such as:

- Restrictions, for a reasonable period of time, on the professional activities of former public officials;

- There is no specific provision concerning this restriction, however, the Employment and Industrial Relations Code 2016 provides that a labour inspector shall not make use of or reveal, including after leaving Government service, any manufacturing or commercial secrets, working processes or confidential information which may come to his or her knowledge in the course of his or her appointment as a Labour inspector.

- Restrictions, for a reasonable period of time, on the employment of former public officials by the private sector after resignation or retirement;

- Kiribati has no specific policy or legislation that restrict the engagement of former public official in any of the private sector after being resigned or retired. The only change that came into effect after the new Government took office in March 2016 was the change in the retirement age from 50 to 55 (NCS).

- The Government has planned to revive the Retirement Acts which this act may speak a lot of conditions for retired civil servants and one of which is the period of time for their engagement in private entities after their resignation or retirement.

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties may face include:

- Challenges in developing the proper legislative or regulatory framework for managing or preventing conflicts of interest;

- The Office responsible for formulating new policies/legislation has a minimal number of local expertise who could provide an efficient/effective service associated with anti-corruption. Hence, capacity development in the area of anti-corruption for policy makers/legislators is highly needed.

- Challenges in administering conflict of interest systems;

- Kiribati Government's system in regulating corruption is considered vague in this area as no system in place on conflict of interests. Not only as that, but officers responsible to look after this, are incompetent to do the work.

- Challenges in relation to specific recruitment, selection or training requirements for categories of positions considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest;
 - Recruitment policy and Training Procedure Manuals were outdated. Amendment is indeed needed to these policies in order to conform to new legislation, regulations and standards.
- Challenges in providing ethical guidance or advice to public officials; and
 - There is no expertise in Kiribati who could provide advices in this regard and so put much reliance on foreign technical assistance.
- Challenges in communication, and in particular in raising awareness and disseminating information about new standards of conflict of interest or in developing training manuals, courses, curricula or other related material, including online initiatives, used in training programmes for public officials
 - Changing the mindset of citizens to the notion of anti-corruption (conflict of interest) is quite difficult as corruption is perceived by citizens as an acceptable norm.
 - Financial implications - insufficient finance to fund for a comprehensive awareness is another barrier that barricade government effort to convene awareness.
 - Given the fragmentation of data, Government need to have a centralised database for all corrupt cases.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

- Legislative assistance: Please describe the type of assistance
 - Foreign Technical Assistant (TA) from one of the recognized anti-corruption academy is needed to establish a robust anti-corruption system of the government.
 - The anticipated TA must have the ability to formulate policies/legislations and must be able to build the capacity development of anti-corruption officials through the transfer of his/her skills and knowledge.
- Institution-building: Please describe the type of assistance
- Policymaking: Please describe the type of assistance
 - This need is parallel to legislative assistance above where Government needs Anti-Corruption Specialist who could help to establish anti-corruption system and to formulate relevant policies/legislation.
- Capacity-building: Please describe the type of assistance
 - Short term training on the investigation of corruption.
- Research/data-gathering and analysis: Please describe the type of assistance
 - A TA or capacity building to existing IT officers to establish anti-corruption centralised database is needed.
- Facilitation of international cooperation with other countries: Please describe the type of assistance
 - Work attachment at any recognized anti-corruption academy is highly recommended as a means of building the capacity development of anti-corruption officials.

- Others: Please specify

States parties are also encouraged to provide a description of any such assistance already being provided, including donor information.