

**OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON THE
PREVENTION OF CORRUPTION
THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY Kiribati
Article 8, Paragraph 5
Asset and Interest Disclosure Systems
Kiribati (ninth session)**

II - Information requested from States parties in relation to asset and interest disclosure (art. 8, para. 5) 1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 8 (5) of the Convention, and in particular to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

Information sought may include:

Similarly, Kiribati has not fully domesticated the principles of this article 8 para 4 in its legislation and policy, however, there are legislations and policies that speak a little about asset and interest disclosure as discussed below. Such legislation and policies include Proceed of Crime Act, Leaders Code of Conduct Act, Internal Revenue Act, National Condition of Service, and Draft Anti-Corruption Code of Conduct for Public Service and so forth.

- Description of the objectives of the declaration system applicable to public officials (prevention of conflict of interest, illicit enrichment, or both [dual system]).
 - There is no specific instrument or system that abide all public officials to sign declaration related to conflict of interest, illicit enrichment or both.
- Where such a declaration system is in place, you may wish to provide information on the following:
 - Types (categories) of public officials required to make declarations and approximate total number of persons submitting declarations;
 - Generally, Members of the House of Parliament are required by law to swear an oath of allegiance before taking their seat in parliament.
 - Whereas, Secretaries are also required to take declaration affirming that they will well and truly serve the Government of the day. This declaration is also applied to Executive Assistant and Minister's Chauffers.
 - Information that must be declared (assets, outside activities and employments, positions in companies, other associations, gifts and other benefits, liabilities, etc.);
 - Section 4 (c) of the Leaders Code of Conduct Act provides that a leader must disclose any fraud or corruption that he becomes aware of.
 - Section 11 of the Leader Code of Conduct Act speaks that a leader must lodge with the leadership commission before end of January every year, a brief written statement of his asset and liabilities, in and outside Kiribati, and that of his immediate family. The statement may include a list of properties and their estimated values.
 - Section D.19 (a) of the National Condition of Service provides that Employees are forbidden to give or receive valuable presents, other than gifts from personal friends, whether in the form of money, goods, passages, or any other benefits. This condition applies not only to themselves, but also to their families and employees are responsible for ensuring that it is observed by their families.

- An employee who wishes to stand for election to the House of Parliament must notify his/her Senior Responsible Officer who will be responsible for explaining the conditions under which he may stand.
 - The engagement of a public servant in private employment or commercial undertakings is strictly prohibited in the public service.
 - Section L8 of the National Condition of Service, explicitly emphasize that no administrative officer or employee drawing a salary in Level 9 or above of the Government salary scale may hold office in Association or Union without the approval of the Secretary to Cabinet.
- Frequency of declarations required;
 - The declaration of Secretaries, Executive Assistants and Minister's chauffers shall be made only once and it will valid until the time the said officers are retired or resigned from the public service.
 - The declaration as reflected in Section 11 of the Leaders Code of Conduct Act shall be made end of January every year.
- How declarations are submitted (in paper format, electronically, in person) and the entities to which they are submitted;
 - Section 11(2) of the Internal Revenue Act provides that the disclosure shall be recorded in the minutes of the Board meeting.
 - Despite the absence of declaration system in the public service, the National Condition of Service stands as a replacement of declaration which provide guidance or procedural requirements/standards for all civil servants to follow and obey at all times. Thus, it is the responsibility of all civil servants to familiarise themselves with the content of this condition to ensure conformity.
 - Section D.19 (b) of the National Condition of Service regulates that valuable presents received in the course of public duty which cannot be refused without giving offence, may be accepted, but must not be retained without the permission of the Secretary to Cabinet. Any employee must submit a full description of any such present to the Secretary to Cabinet who shall issue instructions regarding its disposal after consultation with Senior Responsible Officer of the Ministry.
- Availability of tools and advisory services that officials can use in order to comply with their disclosure-related obligations (guidelines for filling out forms, resources for learning about conflict of interest issues, resources for receiving tailored advice on specific conflict of interest situations, etc.);
 - There is no specific advisory services provided by government in this regards. However, sworn officers are obligated to fully understand the importance of their role and to follow all the terms and conditions of their declaration.

- However, Section 17(1) (d) of the Proceed of Crime act has mandated the Financial Intelligence Unit (FIU) to create training requirements and provide training for financial institutions about transaction record-keeping and reporting obligations
- Whether information is declared on assets of public officials' family members or members of public officials' households and under which circumstances such information is provided;
 - Section 93(1) of the Proceed of Crime Act provides that a police officer may apply to a Judge for a warrant under subsection 4 to search premises for a document if (a) a person is convicted of a serious offence, and there are reasonable grounds for suspecting that there is on premises a property –tracking document for the offence or (b) there are reasonable grounds for suspecting that a person has committed a serious offence; and there is on the premises a property-tracking document for the offence.
 - Section 95 (1) of the Proceed of Crime Act provides that a police officer of or above the rank of sergeant may apply to a Judge in accordance with subsection (2) for an order directing a financial institution to give information to a police officer about transactions conducted through an account held by a specified person with the institution during the period specified in the order.
 - Section 113 of the Proceed of Crime Act provides that despite any other law, the Attorney-General may direct the person in charge of a Government department or statutory body to give or disclose, to the Attorney-General or a police officer nominated by the Attorney-General, a document or information that is in the possession or under the control of that person or to which that person has access, if the Attorney-General is satisfied that the document or information is relevant to: (a) establishing whether a serious offence has been or is being, committed or (b) the making or proposed or possible making of an order under part 2 or 3
- What mechanisms are in place for ensuring compliance with the obligation to disclose;
 - Section 15(1) of the Proceed of Crime Act provides that a financial institution or a cash dealer, its officers, employees or agents or any other person must not disclose to any person that (1) a report under section 96 (protection of identity of persons and information in suspicious transaction reports) (2) that the financial institution or the cash dealer has formed a suspicion in relation to a transaction (3) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that a suspicion has been formed or that a report has been or may be, made.
 - Section 11(b) of the Leaders Code of Conduct Act clearly emphasized that a leader who has not filed the annual statement by the required deadline or who filed a false statement is in violation of this code.
 - Section D.12 of the National Condition of Services speaks that unauthorised disclosure by a public servant of any information which he/she has obtained as a result of his position in Government, may be regarded as misconduct.
 - Section D.14 of the National Condition of Service provides that no employee may broadcast lecture, or take part in public debate on any subject of a political nature of express view contrary to declared Government policies without the permission of the Secretary or Senior Responsible Officer.

- Section D.23 of the National Condition of Service extensively regulates that an employee who is found to have given false information at the time of his/her appointment will be liable for dismissal and to forfeit all rights and privileges reserved to him by that appointment .

- Whether there is public access to any of this information;
 - Information as such are free to everyone, however, there is a formality that need to be followed in order to obtain highly confidential information. An authorisation shall be granted first by Secretary to Cabinet, Secretaries, Managers or whoever in charge of the office.
- Any mechanism in place to carry out the verification/monitoring of the content of declarations; including information on the verification mechanism, such as
 - How many disclosures are verified (all, a certain percentage, etc.)
 - There are no published information pertaining the number of verified disclosures.
 - What triggers verification (complaints, routine verification/ex-officio, notifications from other institutions, random selection, etc.);
 - Since no verification mechanisms in place, this questions was unfortunately cannot be responded.
 - What processes are involved in the verification/review process (checks for internal consistency, cross-checks with external databases, comparisons across years, identification of potential conflicts of interest, etc.);
 - No applicable
 - What information can be accessed during the verification/review process (from public officials or public and private sector entities);
 - Not applicable
 - What happens once irregularities are identified (potential conflicts of interest, unjustified variations of wealth, inaccurate information, etc.);
 - Not applicable
- Whether and to what extent the content of disclosures (in summary form or all information disclosed) or names of persons submitting declarations are made available to the public and other public sector entities and, moreover, how the information is made available (upon individual request, on-line, etc.);
 - Government treat this information as highly confidential and shall not be disclosed to anyone unless an authorisation has been granted by Secretary to Cabinet.
- Number of trained staff dedicated to collection, compliance, providing advisory services to officials, making disclosures publicly available, verification, sending referrals to other entities; what types of sanctions are available in the declaration system (for non-submission, actual conflict of interest, false statement, illicit enrichment, etc.).
 - None

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 related to developing and adoption of the legal framework of the assets and interest disclosure system;
 - Kiribati has no assets and interest disclosure system in place.

- Size of our country with very limited resources so value of assets is normally known to be not substantial
- Most public servant get loans from banking or financial institution
- Annual salary for civil servant is the lowest in the region.

In view of the above, it could end up in declaring not an asset but a liability

- Challenges related to the functioning of the asset and interest disclosure system and in particular:
 - Challenges related to submission of the declarations;
 - Submission of the declaration is not socially and culturally accepted.
 - It contravenes other Human Right Act or Lending Institution policy
 - Professional Procedure for submission of the declaration is non-existence
 - Challenges related to verification of the declarations;
 - There is a notion that all financial matters in respect of an individual is confidential. Only by court order where you can access to such information but such process in obtaining court order is lengthy.
 - Challenges related to the follow up and to imposing sanctions;
 - Embarking on follow up and imposing sanctions would be possible only if you have on hand verifiable declaration.
 - Challenges related to the transparency of the regime; and
 - The retaliation of Politician against the whistle blower
- Challenges related to resources limitations, lack of capacity, etc.
 - Lack of potential experts in the area of transparency, asset & interest disclosure

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
 - Expert or Technical Assistant is needed to help build Kiribati's system on asset & interest disclosure
 - Training on drafting new laws for Whistle-blowers protection. Such training is to be specifically designed and developed for government staff working for Anti-Corruption Office with legal background or for the Attorney General's office.

- **Institution-building:** Please describe the type of assistance

- Capacity development for Kiribati officers in charge of Anti-corruption is indeed needed.
- Providing published guidelines manuals or white paper on best practices in Conflict of Interest
- TA to conduct training on such manuals

• **Policymaking:** Please describe the type of assistance

- Technical assistant is also needed to assist government to develop relevant policies.

• **Capacity-building:** Please describe the type of assistance

- Capacity building for Anti-Corruption Committee Members on Asset and Interest disclosure
- Recruiting a Long Term TA
- Staff to attend seminar and short term training conducted overseas
- Work attachment

• **Research/data-gathering and analysis:** Please describe the type of assistance

- TA will be required to conduct training on Research and analysis

• **Facilitation of international cooperation with other countries:** Please describe the type of assistance

- Work attachment with one of the recognized anti-corruption academy as a means to learn their modules and practices on asset and interest disclosure.

• **Others:** Please specify

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