

**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 PACLII 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.

***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