



Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014



Pacific
Community
Communauté
du Pacifique



Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014



Suva, Fiji, 2017

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Since the Kiribati Government endorsed and passed the Te Rau n Te Mwenga Act, our partners have come in to work alongside our team at MWYSA to develop this comprehensive Implementation Plan. There has been considerable consultation with relevant government ministries and in particular key stakeholders. The result is this document, which we hope will continue to guide our implementation activities and provide support for ensuring that the legislation works for Kiribati.

Through this Implementation Plan, it is the hope of the Kiribati Government that all stakeholders, including donors and development partners, will work with us to ensure that all activities identified are implemented effectively, and in doing so continue to eliminate domestic violence in Kiribati.



Natario Kiati,
Secretary, MWYSA

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FOREWORD

The Vice President and Minister for Women, Youth and Social Affairs



Honourable Kourabi Nenem MP

I am delighted to express a few words in this important document for our country in our work of eliminating violence against women.

Violence against women and children, including sexual and gender-based violence, is not acceptable and needs our collective efforts and resources to address it and ensure that we remove it from our homes and community. Since the passing of the *Te Rau n te Mwenga* Act, my ministry has made tremendous commitments to ensure that this Act is fully implemented in Kiribati and that it meets the objectives of which this law was created. This Implementation Plan is useful in facilitating a coordinated and consistent approach to domestic violence. In particular, this Implementation Plan will assist relevant stakeholders, including government, civil-society organisations, development partners and the Kiribati citizens in strengthening existing services and the development of new policies, programmes and services that will be delivered on time, on budget and to expectations.

This Implementation Plan is built on the principles of human rights and places the victim and family members at the centre of any solution of eliminating domestic violence. This has given the proposed law its real meaning and purpose. The Government of Kiribati expresses its gratitude to the national stakeholders, families, communities, and men and women of Kiribati who have all played an important role in developing the content and direction of the Kiribati Family Peace Act. I also acknowledge the work of my ministry staff members and our key development partners, especially SPC RRRT and UN Women for working together to realise this Implementation Plan, one of the first documents of its kind in our Pacific region.

This Implementation Plan is a living document that will continue to be reviewed for effectiveness and amended as the need arises in order to continue to support the government's commitment to seeing Kiribati free from domestic violence.

This government is fully pledged to abide by its key KV 20 Development Vision over the next twenty years and its next four year development plan which recognizes Human rights as key building block for its citizens.

It is in all our interest as a nation to address domestic violence. If not addressed, the economic, physical, emotional, health and high cost of violence will drain our limited resources and therefore we must work together to make our Kiribati a model in the Pacific – as a nation that is committed to gender equality and especially to the eradication of all forms of violence. We owe this to ourselves.

Te Mauri, Te Raoi ao te Tabomoa. Health, Peace and Prosperity to you all. Kam Rabwa.



Vice President and Minister for MWYSA

Secretary for the Ministry of Women, Youth and Social Affairs



Mr Natario Kiati

I am delighted to support the Government of Kiribati's commitment to addressing and eliminating domestic violence from our society. I support my Minister, Honourable Kourabi Nenem, Vice President of Kiribati, in calling for a more coordinated and consistent approach to addressing domestic violence. This is not just the responsibility of one or two ministries, but all of government as well as the community at large.

This Implementation Plan is the result of a tireless commitment by the MWYSA as well as our friends from the Pacific Community's (SPC) Regional Rights Resource Team and UN Women, who have supported us through this process of the creation of Te Rau N Te Mwenga Act, through to the implementation of this Act. Following the launch of the Kiribati National Disability Policy (KNDP) 2016–2019, the government made a strong commitment towards addressing domestic violence, signified by the endorsement of the prolonged draft Shared Implementation Plan to eliminate gender-based violence.

As Secretary to the Ministry responsible for oversight and coordination of the implementing process, I believe that instituting a domestic violence legislation that promotes peace in the family is a huge milestone for Kiribati; however without an effective implementation and enforcement strategy, it would be meaningless.

We are mindful that the Te Rau N Te Mwenga Act binds the Republic, therefore all of the government ministries and departments will work towards ensuring there is more awareness and advocacy around the issue of sexual and gender-based violence, and that it is addressed where appropriate.

MWYSA is committed to ensuring that every man, woman and child will have a good, safe, and healthy life in their homes, in our communities and in our nation. It is likewise through this ministry that I take the opportunity to call upon fellow Secretaries to come forward, join efforts, and pool our resources to implement key activities around eliminating sexual and gender-based violence.

I wish to acknowledge the continued collaborative work with our regional partners, UN agencies and stakeholders – such as SPC, UN Women, UNICEF, OHCHR and UNDP – as well as our donors, especially Australian Aid, to whom we owe much gratitude and appreciation. I invite them to join us as we continue on to the next phase of this challenging and critical undertaking.

Allow me to take the opportunity to share our traditional Kiribati blessing – *Te Mauri, Te Raoi ao Te Tabomoa*. Health, Peace and Prosperity to you all.

Kam rabwa

Secretary

Acronyms

| | |
|----------------|--|
| AFC | Australian Federal Court |
| AFP | Australian Federal Police |
| AG | Attorney General |
| AMAK | Aia Maea Ainen Kiribati |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CRC | Convention on the Rights of the Child |
| CYPFWB | Child, Young People and Family Welfare Bill |
| DESA | Department of Economic and Social Services |
| DV | Domestic Violence |
| DVSO | Domestic Violence and Sexual Offences |
| ESGBV | Eliminating Sexual and Gender Based Violence |
| FPA | Family Protection Act |
| FWCC | Fiji Women's Crisis Centre |
| GoK | Government of Kiribati |
| ILO | International Labour Organisation |
| KPS | Kiribati Police Service |
| M&E | Monitoring and Evaluation |
| MoE | Ministry of Education |
| MoF | Ministry of Finance |
| MOH | Ministry of Health Services and Medical Science |
| MHMS | Ministry of Health and Medical Services |
| MISA | Ministry of Internal and Social Affairs |
| MOJ | Ministry of Justice |
| MOU | Memorandum of Understanding |
| MWYSA | Ministry of Women, Youth and Social Affairs |
| NGO | Non-Governmental Organisation |
| OIC | Officer in Charge |
| PJDP | Pacific Judicial Development Programme |
| PPDVP | Pacific Prevention of Domestic Violence Programme |
| RRRT | Regional Rights Resource Team |
| RMNCAH | Reproductive, maternal, newborn, child and adolescent health |
| SGBV | Sexual and Gender-Based Violence |
| SHIP | Shared Implementation Plan |
| SOP | Standard Operating Procedures |
| SPC | Pacific Community (formerly Secretariat of the Pacific Community) |
| UN | United Nations |
| UNDAW | United Nations Division for the Advancement of Women |
| UNDP | United Nations Development Programme |
| UNICEF | United Nations Children's Fund |
| UNJP | United Nations Joint Project |
| UNFPA | United Nations Population Fund |
| VAW | Violence Against Women |
| WHO | World Health Organization |

PART 1 – INTRODUCTION TO DOMESTIC VIOLENCE AND THE KIRIBATI CONTEXT

1. Objective

Kiribati is a country rich in culture, history and respect. The core and strength of Kiribati is the family and community. The *Te Rau N Te Mwenga* or the Family Peace Act (FPA) seeks to strengthen the strong foundation of family by protecting the rights of all members of the family to feel safe, secure and healthy and to respond to those who try to take away those rights.

The FPA is the product of the Government of Kiribati's commitment to Eliminating Sexual and Gender Based Violence (ESGBV). The motivation for the government's commitment arose following a study into violence in households throughout Kiribati called the Family Peace and Health Survey. The study found that despite the peaceful nature and culture of Kiribati, 68 per cent of ever-partnered women reported experiencing physical and or sexual violence by an intimate partner¹. The data in the research showed Kiribati to have some of the highest incidents of violence against women.

The FPA introduces a new standalone and integrated law aimed at protecting survivors of domestic violence and protecting the foundation of family and peace.

This Implementation Plan has been developed to facilitate a coordinated and effective adoption of the law in all areas of Kiribati, particularly in the justice, health and police agencies. This Implementation Plan also reflects existing policies, procedures and action plans that are already in place to strengthen the safety, security and happiness of the families of Kiribati.

2. Domestic violence

2.1. What is domestic violence?

Domestic violence is a term used to describe a pattern of behaviour that includes the use or threat of violence and intimidation for the purpose of gaining power and control over another person, and is commonly used to describe violence in marital-partner relationships. Today the interpretation of the term has been broadened to include intimate partner, in order to capture violence that occurs in both married and unmarried relationships.² Domestic violence is characterised by physical, sexual, emotional, verbal, psychological and economic abuse, isolation and control over an intimate partner .

Domestic violence does not generally include child abuse, elder or sibling violence, which are broader forms of family violence. Family violence is a term used to describe violence inflicted, committed or used by a family member upon another in the same household. In the extended family arrangements in the Pacific, a person's violent act against an extended family member, whether they physically live in the same household or not, can also be described as family violence.

1 Secretariat of the Pacific Community (2010). *Kiribati Family Health and Support Study: A study on violence against women and children*. Noumea: SPC.

2 UN Women (2010) Handbook for Legislation on Violence against Women. New York: UN Women.

The domestic violence statistics around the world are very concerning; according to the World Bank Report in 2012 on Gender Equality and Development, at least one of every 10 ever-partnered women is physically or sexually assaulted by an intimate partner or someone she knows at some point in her life.³ While men can also be victims of domestic violence, the global statistics show that an overwhelming majority of victims of domestic violence are women and girls.

2.2. Economic and psychological violence

The UN General Assembly includes psychological and economic violence within the definition of violence against women. Despite the overwhelming presence of psychological and economic abuse in Kiribati, both forms of violence are not recognised by the law. The types of violence described in the Kiribati *Penal Code* (Cap 67) are limited to physical assaults, in varying degrees, sexual assaults and violence. Part of the reason for this is due to inconsistencies in definition in the area of non-physical violence and difficulties defining it in law.

However, it must be noted that international best practice includes a legal recognition for psychological abuse. Psychological violence, for example, can include threats, degradation through verbal abuse in private or public, isolating survivors from their family, controlling contact with others and creating a constant fear of the perpetrator. Therefore, it is important to clarify in law, what acts and types of psychological violence will be used as the basis for defining an offence of psychological violence. The Family Health and Support Study use specific repeat patterns of behaviour that can be proven in court.

Economic abuse also needs to be clearly defined in law and can include acts such as the denial of funds, refusal to contribute financially, denial of food and basic needs, and controlling access to health care and employment.⁴ Economic abuse has far reaching consequences and is the leading cause of poverty and homelessness for women and children.⁵ When women and children flee the abusive relationship, they are often forced to return (as they have no money and employability skills) to live with the abuser, exchanging the risks to their lives and wellbeing, for the sake of shelter and basic necessities.

Psychological and economic violence are generally not divorced from physical or sexual violence and are not readily apparent when survivors report violence to authorities. The approach to physical or sexual violence where only the most recent crimes are considered ignores the entire history of abuse and violence suffered by the survivor.

³ World Bank (2011). *World Development Report 2012: Gender Equality and Development*. World Bank: Washington DC.

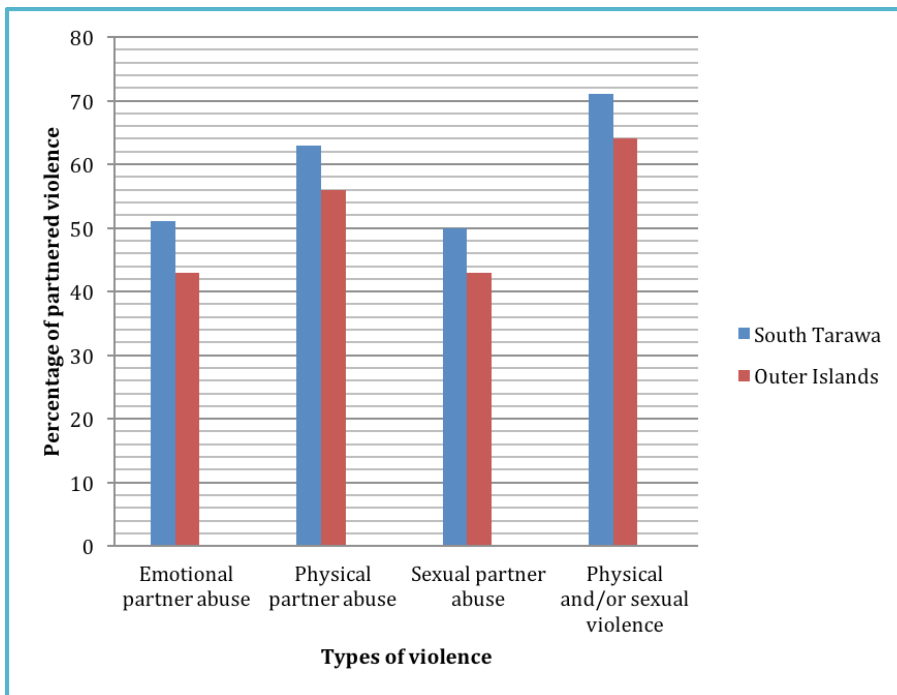
⁴ UNICEF (2000). Domestic Violence against Women and Girls. *Innocenti Digest*, No. 6 – June

⁵ Ibid.

3. Domestic violence in Kiribati – The Kiribati Family Health and Support Study

The *Kiribati Family Health and Support Study* and the *WHO Multi-Country Study on Women's Health and Domestic Violence against Women*⁶ are two important studies that confirmed the high prevalence of violence against women in Kiribati. The *Kiribati Family Health and Support Study* found alarming rates of violence against women in both Tarawa and the Outer Islands. The diagrams and dot points below provide a snapshot of some of the data and key findings in the *Kiribati Family Health and Support Study*⁷

Graph 1 – Percentage of ever-partnered women, aged 15–49, reporting emotional, physical and sexual partner violence, by region



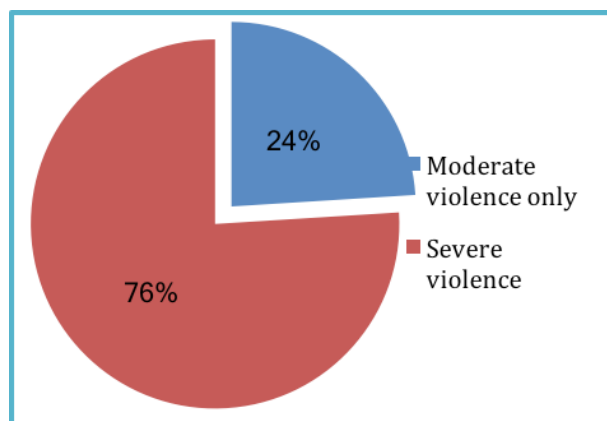
- 19 per cent of women and girls aged 15–49 had been sexually abused before the age of 15.
- Women and girls who have experienced intimate partner violence are seven times more likely to have children who are also abused than those who have not experienced partner violence.
- 90 per cent of ever-partnered women, aged 15–49, reported experiencing at least one form of controlling behaviour by an intimate partner. Controlling behaviour in the study included restricting a woman's contact with her family and friends, insisting on knowing where she is at all times, ignoring her or treating her indifferently, controlling her access to health care, accusing her of being unfaithful, and becoming angry when she speaks to other men.
- 42 per cent of women who had experienced physical or sexual partner violence reported that they had not told anyone about the violence and 78 per cent reported they had never sought help from formal services.

6 WHO (2005). *WHO multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses*. Geneva: World Health Organization.

7 Ibid. n1.

- Nearly half (45 per cent) of the respondents reported never having left their partner and 55 per cent had left between one and ten times, the majority between one and three times.
- 42 per cent of women who had experienced partner violence reported that they had thought of ending their life.

Graph 2 – Percentage of women reporting moderate violence compared with severe violence, among all women reporting physical partner violence



The data from the *Kiribati Family Health and Support Study* indicates an extremely serious and endemic problem in Kiribati. Based on this data, it is reasonable to conclude that VAW is a systemic problem in Kiribati with a high degree of social, cultural, legal, and institutional acceptance and/or tolerance. This tacit acceptance is unacceptable and violates I-Kiribati women's fundamental human rights, including their right to freedom from violence, the right to live their life with dignity, and the right to life.

4. Responding to violence against women in Kiribati – government commitments⁸

The Government of Kiribati has shown strong commitment to eliminating sexual and gender-based violence in its communities.

Kiribati is a State party to the *Convention for the Elimination of All Forms of Discrimination against Women*, the *Convention on the Rights of the Child* and the *Convention on the Rights of People with Disabilities* (among other relevant treaties). These conventions articulate the international standards required of the Government of Kiribati in eliminating sexual and gender-based violence, advancing gender equality, providing safety and protection of its people (particularly women and children) and holding perpetrators to account. In addition, the government also subscribes to the United Nations Sustainable Development Goals, of which Goal 5 (Gender Equality) and Goal 10 (Reduced Inequalities) are relevant to eliminating domestic violence.

Kiribati is a Country Champion for the *UN Adolescent Girls Initiative (AGI)*, launched in March 2012, which is an important strand that is to keep adolescent girls free from violence, and build evidence-based primary prevention approaches. Kiribati has also been an active participant in the multi-sectoral *Pacific Islands Forum Reference Group to Address Sexual and Gender-based Violence*, which was established in November 2010 to support the implementation of the Forum's mandate to build national ownership of work to address SGBV.

⁸ This section has been sourced from the Government of Kiribati (n.d.). *Shared Implementation Plan to Eliminate Sexual and Gender Based Violence in Kiribati (Zero Draft: 21 August 2013)*.

In addition, the Government of Kiribati (GOK) has also developed or is drafting the following policies, plans and legislations to address SGBV:

- *National Policy and Action Plan to Eliminate Sexual and Gender Based Violence 2011–2021*
- *Government's Policy Statement for 2012–2015*
- *The Children, Young People and Family Welfare Policy*
- *A draft Gender Access and Equality Policy and Implementation Plan 2013–2016*
- *A Whole of Government Gender Equality and Women's Development Policy*
- *Penal Code 1965*
- *Children, Young People and Family Welfare Act 2013*
- *Kiribati Te Rau N Te Mwenga (Family Peace) Act 2014*

4.1 The Shared Implementation Plan (SHIP)

The Government of Kiribati's Shared Implementation Plan (SHIP) is a document that seeks to advance the efforts to eliminate sexual and gender-based violence in Kiribati. The SHIP was designed to commence in January 2014 and end in 2018. It is further anticipated that the SHIP will have a second phase from January 2018 until December 2021, to coincide with the lifespan of the Kiribati National Plan.⁹

The SHIP was designed following extensive preparatory work and consultations with government, civil society, communities, development stakeholders and faith-based organisations. It has been drafted to be owned by and implemented by the Government of Kiribati.

One of the central aims of the SHIP is to coordinate the various efforts and outputs of the Government of Kiribati and development partners to eliminate sexual and gender-based violence. It also contains activities and outputs related to early intervention, awareness raising, community education and support services for victims and survivors of sexual and gender-based violence.

This Implementation Plan for the FPA has been designed to complement the activities contained within the SHIP as well as to meet the requirements of the FPA. All possible efforts have been taken to ensure that the activities between the two implementation plans are complementary and do not duplicate efforts and thus misuse the limited resources that are available. It is anticipated that these two plans will complement each other and will assist the Government of Kiribati to coordinate efforts to eliminate sexual and gender-based violence and address domestic violence.

'The MWYSA through the Women's Development Division (WDD) has worked extensively to implement the national ESGBV policy by undertaking appropriate consultations, awareness and training with local communities, NGOs and government bodies to enhance the development and equality of women in all spheres of their lives. The government recognizes that gender based violence affects the entire population and to effectively address this issue, it requires an integrated and coordinated whole-of-government approach that engages communities, clearly specifies responsibilities and accountabilities and encourages and directs actions from the village through island to the national level.'

Kiribati Government
National Report to the UPR,
November 2014.

⁹ Ibid.

5. The Te Rau N Te Mwenga Act (The Kiribati Family Peace Act)

The *Te Rau N Te Mwenga Act* introduces a new integrated and standalone law aimed at protecting victims of domestic violence. The Government of Kiribati, through the Changing Laws: Protecting Women and Families Taskforce (which was then under the auspices of MISA) developed the policy framework underscoring the FPA. Technical assistance was sought from and provided by the Regional Rights Resource Team (RRRT) of the Pacific Community (SPC).

In Kiribati, as is the case in much of the Pacific region, domestic violence is not seen as an independent crime. Rather, incidents of domestic violence are typically addressed by the Kiribati police and justice system as assaults or grievous bodily harm. The result of this is that the many forms of domestic violence beyond physical abuse (economic, psychological, sexual, etc.) are not addressed by the police or justice system.

For the first time in its legal history, with the development of the FPA, Kiribati will recognise domestic violence as a crime. This is a momentous achievement for the protection and response to victims of domestic violence and the broader community who feel the repercussions of this often repeated behaviour.

5.1. Drafting options

In drafting the FPA, guidance has been sought from the recommendations of the UN Women *Handbook for Legislation on Violence Against Women*¹⁰ and the UNDAW report from the expert group meeting, *Good Practices in Legislation on Violence Against Women*.¹¹

In addition, drafting instructions in the existing Kiribati context were gained from the SPC RRRT publication *Legal Analysis on Violence Against Women, Kiribati Drafting Options for Legislative Reform*.¹² This publication contains an intensive analysis of the existing legal frameworks in Kiribati, an exploration of the social and legal problems faced by survivors of VAW and children, as well as recommendations for service strengthening, development and interventions.

The utilisation of these sources has aided a legal drafting process that was informed by international good practice and made relevant to the political, social, cultural and economic context of Kiribati.

5.2. What does the Act contain?

The primary features of the Act are:

- creation of an offence of domestic violence;
- establishment of protection measures such as protection orders and police safety orders;
- introduction of preventative measures such as education and public awareness programmes to reduce, prevent and eliminate violence;
- introduction of a monitoring mechanism through a council comprising key stakeholders who have a critical role to play in the implementation of the law; and

¹⁰ UN Department of Economic and Social Affairs, Division for the Advancement of Women (July 2010), *Handbook for Legislation on Violence Against Women*, UN Doc ST/ESA/329.

¹¹ UN Division for the Advancement of Women and UN Office on Drugs and Crime (2008), *Good Practices in Legislation on Violence against Women*, Report of the Expert Group Meeting, Vienna, 26–28 May 2008.

¹² Secretariat of the Pacific Community, Pacific Regional Rights Resource Team (SPC RRRT) (July 2013). *Kiribati: Legal Analysis on Violence against Women – Drafting Options for Legislative Reform*. Suva, Fiji: SPC.

- establishment of funding support for domestic violence victims such as shelters, training, prevention and public awareness programmes.

In addition, the Act recognises that domestic violence takes many forms. As such, the Act discusses the various ways that domestic violence manifests. This is in order to encourage service response to be holistic and broad-minded. In particular, the Act highlights domestic violence as the following:

- Physical abuse
- Sexual abuse
- Verbal, emotional and psychological abuse
- Economic abuse
- Stalking and other forms of ongoing harassment

5.3 Who is protected under this Act?

This Act provides protection for all members of the Kiribati community. In particular, it provides protection for victims of domestic violence and addresses the behaviour of the perpetrators. This Act does not discriminate on the basis of the age of the people in the relationship (young and elderly alike), the gender of the victim (female and/or male), nor the sexuality, race and ethnicity of the people in the relationship. All persons alleging to be victims of domestic violence are to be afforded full protection of the law irrespective of their individual characteristics or identities. Although it is accepted that the legislation is gender neutral, the vast majority of victims and survivors of domestic violence are women.

Implementing agencies are also encouraged to consider the particular challenges and threat of victimisation faced by persons with a disability. In particular, women and young girls with a disability continue to represent a high number of sexual and gender-based violence cases, including domestic violence. Often persons with disabilities face increased challenges accessing justice and assistance as they continue to be marginalised and encounter discrimination.

This law provides equal protection for everyone, including people with a disability. Implementing agencies should make reasonable adjustments to their services to ensure that everyone can access them. For example, having police attend the home of a person with a disability to record their statement rather than requiring that they visit the police station, and ensuring that a disability rights worker is present should the person with a disability request or require one. Adjustments such as this will ensure that justice is accessed and enjoyed by everyone.

6. Principles underpinning this Implementation Plan and the Act

6.1. Human-rights based approach

The Government of Kiribati is a State Party to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with a Disability (CRPD) amongst other international treaties. These international standards are effective and useful for informing policy, procedure, legislation and conduct. In this respect, the GOK has demonstrated strong commitment to human rights by endorsing the Family Health and Support Study, developing and implementing its various policies and by participating openly in the drafting of the FPA.

The FPA and this supporting Implementation Plan are developed with a view to enhancing the enjoyment of the human rights of the people of Kiribati, particularly in protecting women from domestic violence. The principles that underpin these two documents are best articulated through the PANEL framework, described in the box below.

PARTICIPATION – *This was achieved through the various consultations with government and community in the drafting of the legislation and Implementation Plan.*

ACCOUNTABILITY – *This document has been drafted following consultation with various representatives of the implementing agencies. This Implementation Plan is owned by the Government of Kiribati and in turn, the government remains accountable for its effective rollout and modifications as necessary.*

NON-DISCRIMINATION – *All activities of this Implementation Plan seek to advance the rights of all persons of Kiribati without prejudice to the gender, sexuality, marital status, age, physical capability or other individual characteristics of the person.*

EMPOWERMENT – *This plan supports other related policies, procedures and initiatives throughout Kiribati (such as the SHIP), which aim to empower women to live free from violence and with integrity.*

LINKAGES to international human rights instruments – *As noted above, this document is informed by and seeks to support the realisation of the human rights of the people of Kiribati.*

6.2. Gender equality

Domestic violence is a product of and contributes to ongoing gender inequality. Traditional power distribution in Kiribati, which is consistent with the other countries of the Pacific region and also the international community at large, favours the voice, strength, freedoms and representation of men. This creates a disempowered female population who struggle to access their rights to safety, security, integrity and the freedoms required to flourish. Empowering women fuels thriving economies, which then spurs on productivity and growth.

The FPA and its related Implementation Plan work towards addressing domestic violence as one of the symptoms of gender inequality. The intent is not to place women as more powerful than men or to provide women with more rights than men, but rather, to facilitate an environment that values and protects women the same as it does men.

In developing countries like Kiribati, where women may depend on men for livelihood needs, such as food and shelter, it is highly likely that some domestic violence survivors are reluctant to pursue legal action against the alleged perpetrator. Implementing agencies can support women to overcome this barrier by providing a quality service that is speedy and considerate of the financial and social impact of domestic violence on the woman and their dependents.

6.3. Access to justice

A law is only as strong as its implementation and the communities' access to it. Even the strongest and most well-meaning laws can be ineffective if the community does not have access to it. And in order for the community to access a law and the justice contained within it, the implementing agencies and the government must ensure that their services, activities and outputs are consistent, of good quality and equal to all.

In countries such as Kiribati, access to justice can be a challenge due to the limited resources and the geography of the country. Communities in the outer islands, for example, may find it more challenging to reach a police officer or a court to lodge their complaints. In addition, the community setting can also make it difficult to guarantee confidentiality and privacy of the persons involved in the relationship. In consultations held with the communities of Kiribati, access to telecommunications in the outer islands was also noted as a challenge to both the victims of domestic violence and the services associated with it.

Overcoming some of these challenges (e.g. improving telecommunication infrastructure to the outer islands) can be a long-term effort. However, some challenges can be overcome immediately. In particular, challenges faced by women who are accessing justice – such as poor customer service by the implementing agencies, discrimination against persons with a disability, judgment of the women and their integrity and other such service issues – can be dealt with by ensuring ethical and professional conduct by the implementing agencies. Through strong leadership, education on human rights, gender inequality and domestic violence, as well as ongoing monitoring and evaluation of individual and collective performance of the implementing agencies, can go a long way to improving access to justice by victims.

PART 2 – DEVELOPING THE IMPLEMENTATION PLAN

This Implementation Plan has been drafted as a living document for the consideration, modification and endorsement of the Government of Kiribati.

In addition, this Implementation Plan has been drafted in the context of the time at which it was drafted. The following sections will highlight the context in which this Implementation Plan was drafted as well as assumptions made and challenges faced.

7. Political will

As discussed in Part 1 of this document, the Government of Kiribati has made strong and public commitments on eliminating sexual and gender-based violence in its communities through the following documents:

- *National Approach to Eliminating Sexual and Gender Based Violence (ESGBV) in Kiribati: Policy and Action Plan 2011–2021*
- *Policy Statement for 2012–2015*

Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014

- *Gender Equality and Women's Development Policy (draft)*
- *Gender Access and Equity (draft)*
- *Family Welfare Policy*
- *Children, Young People and Family Welfare Act*

These policies and laws (as a sample) create a strong foundation for the Family Peace Act and its implementation. However, in order to facilitate the success of the Family Peace Act, the government must ensure that sufficient political support is generated within its ministries and departments in order to carry out the responsibilities agreed upon in this law. This support is critical to achieving both early intervention and prevention of violence that is typically achieved through public awareness and education programmes.

Political support and strong leadership from all government ministries and secretaries is also critical in the provision of quality services and programmes that provide assistance to victims of domestic violence and respond to the rehabilitation of perpetrators to ensure that the issue does not continue to occur. For these commitments to be translated into actions at ministerial and departmental levels, the government must also be willing to allocate sufficient resources for these purposes.

Extract: The Pacific Islands Forum – Cairns Communiqué (2009)

64 – Sexual and Gender based violence (SGBV) is now widely recognized as a risk to human security and a potential destabilizing factor for communities and societies alike. It remains pervasive across the Pacific, and as it is still considered a sensitive issue in most Pacific cultures, its prevalence often goes underreported. There is an urgent need to acknowledge the prevalence of SGBV in the Pacific at all levels of the community, whether occurring in the domestic context of during conflict and post conflict situations.

65 – While accepting the differing context for Forum member countries, Leaders noted the importance of encouraging and ensuring national ownership of necessary processes to address SGBV. Recognizing the significance of this issue, Leaders:

- a) Reaffirmed support for ongoing action by the Secretariat and Forum members at the highest level, in collaboration with relevant stakeholders, to raise awareness of the seriousness of sexual and gender based violence (SGBV) and its impact on the Pacific, and to establish firmly on the political agendas of Forum members the issue of SGBV;
- b) Acknowledged the prevalence of SGBV in the Pacific and the risk that it poses to human security and as a potential destabilizing factor for communities and societies alike;
- c) Welcomed and supported efforts and important contributions at the local national and regional levels to address SGBV, including through increased Pacific engagement in relevant global initiatives aimed at preventing and eliminating violence against women and girls in all parts of the world; and
- d) Committed to eradicate SGBV and to ensure all individuals have equal protection of the law and equal access to justice.

Note: The Cairns Communiqué shows Pacific Leaders' commitment, and their call to all Pacific Island governments to address and eliminate domestic violence.

8. Resources

This Implementation Plan acknowledges that Kiribati has limited monetary and service resources. This plan also acknowledges that domestic violence is only one of many issues seeking resources from the government. With that in mind, this Implementation Plan has been drafted with the intention to integrate as many implementation activities as possible into existing procedures, policies and programmes. As such, the Implementation Plan encourages the strengthening of existing services, programmes and policies.

Having said that, appropriate allocation of resources, both financial and specialist, will be required for the successful implementation of the Act.

8.1. Specialist resources

The UNJP¹³ notes that ‘lessons learned from other Pacific jurisdictions and consultations conducted in Kiribati over the past two years indicate that without specialist resources dedicated to SGBV victim/survivors, legal and court systems will continue to fail them and perpetrators will continue to evade justice.’ Moreover, consultations revealed that in Kiribati, despite the policy and legislative reform commitments, pathways for victims/survivors in accessing adequate justice responses are limited, and the capacity of the justice sector to provide an informed response to ESGBV victims is often low.¹⁴

The Chief Justice of Kiribati also stressed that the ‘perennial needs of the judiciary are adequate financial and manpower resources. This is essential in order for the Judiciary to effectively perform its constitutional duties and functions. The demand to provide adequate services expected of the Judiciary today is very different to 20 years ago. The Courts need to be proactive and reach out to the people, rather than the people reaching out to the Courts. This requires adequate financial and manpower provisions.’¹⁵

Apart from the courts being fully resourced and financially supported to better address SGBV, healthcare, police services and social welfare systems also need these specialist resources. Investment in these institutions ensures they are able to support the justice system, not only in protecting victims/survivors of domestic violence, but also working towards preventing and eliminating domestic violence.

8.2. Financial resources

It is envisaged by the FPA that there is a need for financial resources to be woven into the budget proposal of all government ministries and departments in order to address SGBV. As the Act binds the Republic, there must be considerations made by government departments and ministries in their respective budgets dedicated to eliminating domestic violence in Kiribati. Further, a proper costing of the legislation must be carried out, and the key implementing agencies – including Ministry for Women, the police and the judiciary, among others – should include costing for the implementation of this Act within their budget submissions each year. Since there is also considerable funding provided by the donor and technical partners and agencies, the Ministry for Women as the focal ministry for the FPA should strengthen its coordination to ensure effective use of resources and to avoid duplication of spending on key activities.

¹³ UN Joint Programme. 2013–2018. Un-published in-house document.

¹⁴ Ibid.

¹⁵ Annual address delivered at the Formal opening of the Court commencing 2013 Legal Year of the High Court of Kiribati on 1 February 2013 by the Honorable Chief Justice Sir (Gilbert) John Baptist Muria Kt, <http://www.paclii.org/ki/court-annual-reports/Chief-justice-address-2013.html> accessed November 14, 2013.

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For police, health services and other service providers named in the Act to fully address SGBV and DV, there is a need for more financial resources to support their increased training programmes, as well as the need to have sufficient and relevant resources on SGBV. It is envisaged that some of the activities that are identified in the Implementation Plan will be supported by donors, particularly Kiribati's traditional donors who are already supporting activities that address DV and SGBV. Some of the key and existing donors working alongside the GOK – whether through bilateral or regional arrangements – are listed below:

- The key donor is the Australian Government through the *Pacific Women Shaping Pacific Development Fund*, which was launched in August 2012.
- The Government of Kiribati and UN Joint Programme 2014–2017 also sees the continued commitment both in terms of financial and related services of the United Nations organisations in Kiribati, and these include: UN Women, UNICEF, UNFPA, UNDP, WHO and ILO. A costed SHIP document has been shaped by various consultations conducted by the UN and stakeholders in Kiribati.
- Development partners, including SPC's RRRT, support training activities in-country and are able to provide technical assistance on a range of legal and policy activities and training if requested by relevant government ministries and departments, or other stakeholders.
- World Bank is providing substantial funding for the SafeNet project.

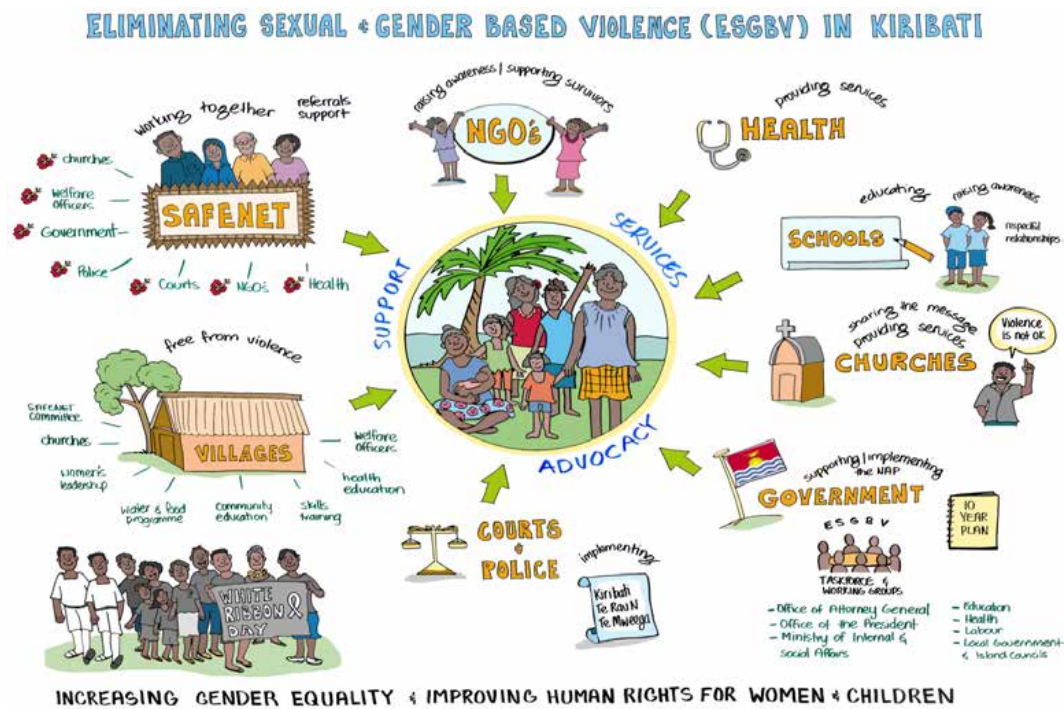
PART 3 – IMPLEMENTING AGENCIES

The Family Peace Act places responsibilities on the whole of the Kiribati Government to respond to the incidents of domestic violence with compassion, efficiency and quality service provision. The Act also allocates specific actions and procedures that must be taken by service agencies to protect victims of domestic violence and to respond to perpetrators.

9. Multi-sectoral support for ESGBV in Kiribati

The Act binds the Republic (S. 10) and imposes a legal duty on all government departments and ministries to create public awareness programmes, educational initiatives, training and research in the area of violence in the family and in the community (S. 26). Key government ministries identified in this Implementation Plan need to also effectively coordinate their services so that there is a general awareness and understanding of what the government is doing to address domestic and gender-based violence. However, the responsibility for service delivery and associated data collection, analysis and sharing belongs with ministries such as policing, social welfare, health, justice and education and the coordination role belongs to MWYSA.

Strong political leadership is crucial to ensure that there is strong coordination among the different sectors, donors and government departments and ministries working towards the implementation of the FPA in Kiribati, especially in the allocation of financial resources and targeted training and activities towards the successful implementation of the FPA.



Art source: Mary Brake, Reflection Graphics, <http://www.ifvp.org/directory/mbrake/>

As the illustration above shows, addressing gender inequality requires a working partnership between the government, key implementing agencies and community stakeholders.

Outside of government services, there are also key service providers that give assistance to victims of domestic violence and the perpetrators:

- The Catholic nuns of Our Lady of the Sacred Heart Order run Kiribati's only crisis centre, which provides shelter to victims/survivors of domestic violence and hosts an Alcoholic Anonymous group that provides counselling and training to persons with alcohol abuse issues.
- AMAK (AiaMwaeaAinen Kiribati) is the national umbrella organisation for women. AMAK has been influential in generating visibility and awareness around the issue of domestic violence.
- The Kiribati Family Health Association (KFHA) provides counseling to families, including women and girls, across a wide range of issues. They also provide general counseling, including to survivors of domestic violence.

To address resource challenges that continue to be a barrier to addressing violence against women, the Kiribati Government will need to work multi-sectorally and in coordination with NGOs and faith-based organisations as partners in addressing domestic and gender-based violence. This partnership is critical not only from a resource perspective but also due to the fact that prevention and elimination of violence in the homes and communities needs to be carried out through collaborative efforts by the people of Kiribati. Community groups such as those noted above also have considerable experience in dealing with issues of domestic violence and an intimate knowledge of the communities, which is beneficial for service delivery.

10. Law and justice sector

10.1 Kiribati Police Service (KPS)

Two pieces of legislation regulate the Kiribati Police Service. The Police Service Act 2008¹⁶ outlines structures and protocols, including disciplinary measures, while the Police Powers and Duties Act 2008¹⁷ spells out their powers and responsibilities. Both of these pieces of legislation comprehensively regulate the functions and duties of the police and ensure that their powers and responsibilities are within the ambit of the law. Section 15 of the Police Service Act directs the Police Commissioner to provide reports and recommendations to the minister about the administration of police services, when required to do so by the minister. Consequently, the Police Commissioner presents an annual report of the Kiribati Police and Prisons Services, which details activities, programmes, budgetary spending and crime data, including on domestic violence, for the reporting year.¹⁸ The FPA envisages a similar role for the Police Commissioner, which complements the Commissioner's existing reporting role.

Police training around police processes, procedures and the law are necessary, with strong monitoring and evaluation of these training modules to ensure that they are relevant and having an impact in changing police attitudes and perceptions with regard to domestic violence. It is important that the training is focused on attitudinal changes about women and VAW in order to improve police commitment to ESGBV. A lot of this training is guided by various training materials, programmes and other areas of capacity development that already exist. Some of these include the following:

- **Kiribati Police and Prisons Strategic Plan 2012–2015;**
- **KPS Recruitment Programme** – developed by the Police Training Unit, this programme focuses on recruiting new police officers and their 16-week training programme, which includes a domestic violence unit;
- **Kiribati Training Services Diploma in Policing** – offered for police officers (apart from Special Constables) entering the service and covers various aspects of policing, including investigations, crimes, processes and procedures, etc. Module 6 looks specifically into various offences but there is nothing on domestic violence, given that this is not a *de jure* crime. However there is a general section on assault, of which most domestic violence offences are charged under;
- **Kiribati Police Orders and Procedures;** and
- **KPS Mentoring Programme** – an initiative taken by the KPS to support police recruits.

Since 2006, the Pacific Prevention of Domestic Violence Programme (PPDVP) and the Pacific Regional Police Initiative (since 2005) have assisted with the incorporation of VAW into the police training curriculum.¹⁹ However, there is a need to amend some of these documents to capture the new FPA, as well as the increased police powers prescribed under the FPA. Based on consultations with the KPS and other key domestic violence stakeholders in Kiribati, there is a need to further develop training for the police in the area of domestic violence, as well as in the new domestic violence law. The development of the Family and Sexual Offences Unit (FASO) and community policing have been important steps in improving the police responses to cases of violence against women and children.²⁰

16 http://www.paclii.org/ki/legis/num_act/psa2008149/

17 http://www.paclii.org/ki/legis/num_act/ppada2008253/

18 Reference is made to the Annual Report of the Kiribati Police and Prisons for 2012. Page 34 of the report notes the numbers of DV cases reported to the police from four main areas in Kiribati with Betio recording 352 cases of DV, 79 in Bairiki, 97 in Bikenibeu, 73 in Bonriki and 14 from other Stations. In 2012, there were 615 cases of domestic violence reported to the police.

19 Ibid. n11.

20 Ibid. n11, p. 64.

10.2. Judiciary

The judiciary is led by the Chief Justice, as the chief judicial officer, and the Chief Registrar being the chief administrative officer of the courts. Generally, the Chief Registrar's office is supportive of training and capacity development programmes for the judicial staff members and magistracy. While there is no standard national judicial staff training programmes (most are only done on an *ad hoc* basis), the magistracy has its own training programme; however it has not always been possible to carry this out consistently due to resource constraints. In 2011, the judiciary organised the first National Judicial Conference; though it is highly unlikely that this will become an annual event due to 'resource and logistical difficulties.'²¹

There is currently a High Court that deals with civil, criminal and land matters with inherent and unlimited jurisdiction, and 24 magistrates' courts (managed by lay magistrates) that also deal with criminal, civil and land matters with limited jurisdiction as set by law. Because of the nature of domestic violence, the matter can either be dealt with in magistrates' courts (if it is a charge of common assault, etc.) or the High Court (if the charge is one of murder or manslaughter). This is dependent on the gravity of the offence, which determines which court the case goes to.

The FPA criminalises the act of domestic violence. It also gives magistrates' courts jurisdiction to deal with all domestic violence cases brought under this legislation, including increasing the criminal jurisdiction of magistrates' courts to impose higher fines for domestic violence-related offences. Under the Family Peace Act, the judiciary and its administrative staff members will be sensitised and informed of the contents of the law, as well as developing their own administrative processes, such as maintaining court registers for all domestic violence cases that are dealt with by the court under Section 13 (5) of the FPA. The Chief Registrar acknowledged that this training – and continuous training thereafter – is crucial for court staff before the law is enforced²².

To be able to address training and capacity development needs within the judiciary, the Chief Justice acknowledges that the judiciary needs to be 'adequately resourced'.²³ However, over the years the training for the judiciary has largely been provided by the Pacific Judicial Development Programme (PJDP).²⁴ At the moment, the current Standing Court Procedures provide the basis on which the judiciary responds to domestic violence. Some of the current practices include responding quickly to dispose of domestic violence cases. Furthermore when a trial date is fixed, this cannot be vacated unless sufficient cause is shown. In an emergency domestic violence case, there is a magistrate on a shift roster. Moreover, a magistrate is always on standby to grant immediate orders for domestic violence cases brought to the attention of the court via a restraining order.

21 Annual Address delivered at the Formal opening of the Court Commencing the 2013 Legal Year of the High Court of Kiribati on 1 February 2013 by the Honourable Chief Justice Sir (Gilbert) John Baptist Muria Kt, <http://www.paclii.org/ki/court-annual-reports/Chief-justice-address-2013.htm/>, accessed November 14, 2013.

22 Interview with the Chief Registrar, Mrs. Tetiro Maate Semilota (Romulo Nayacalevu and Tigest Sendaba) on 4 November 2013, at the Chief Registrar's Office in Betio, Kiribati.

23 Annual Address delivered at the Formal opening of the Court Commencing the 2013 Legal Year of the High Court of Kiribati on 1 February 2013 by the Honourable Chief Justice Sir (Gilbert) John Baptist Muria Kt, <http://www.paclii.org/ki/court-annual-reports/Chief-justice-address-2013.htm/>, accessed November 14, 2013.

24 Ibid.; PJDP website: <http://www.paclii.org/pjdp/index.html>

11. Support Services

11.1. Ministry of Health and Medical Sciences

The Kiribati health services are regulated by the Medical Services Act 1996 and the Medical and Dental Practitioners Act 1981, among other regulations and ordinances (such as the Public Health Ordinance). The Ministry of Health and Medical Services has four main hospitals and 34 health centres (eight in South Tarawa, four in Betio and 22 in the outer islands).²⁵ Within the main hospital in Nowerewere and in Betio is a small domestic violence unit that documents domestic violence cases received by the hospital. The current Family Peace Act provides for a duty of care on behalf of all health care professionals (defined in this law as a doctor, nurse or health care worker who is engaged in any medical facility providing medical services) to victims/survivors of domestic violence.

It is envisaged that training for health care professionals on domestic violence, the FPA and related processes on the law, should take place, which will complement the current focus (MOH Strategic Plan) of strengthening the Ministry of Health's response to domestic violence cases. The Ministry of Health is also guided in its training and operations by its various internal documents and Plans:

- i. **Kiribati Health Strategic Plan 2012–2014** has seven strategic focuses on both current and emerging issues, including addressing gender-based violence. As part of its Strategic Objective 6, the MOH will focus on improving 'access to high quality and appropriate health care services for victims of gender based violence'. Strategic Objective 6 contains comprehensive approaches to addressing domestic violence and references to some of these activities will be highlighted in the table of activities below. The three main strategic activities for DV proposed in this Strategic Plan are:
 - a. MHMS to finalise and implement standard operating procedures (SOPs) in line with the whole-of-government Eliminating Sexual and Gender Based Violence (ESGBV) Policy.
 - b. Improve health care facilities and systems for the management, treatment and care of victims of gender based violence.
 - c. Build the capability and capacity of the health workforce so that it is better able to meet the health care needs of victims of GBV.
- ii. **MOH Standard Operating Procedures – Policy and Clinical Protocols for Minimum Standards of Treatment of Survivors of Gender Based Violence.** These SOPs and related health protocols are linked to the Government of Kiribati's National Policy on Elimination of Violence against Women. Specifically, they respond to the 'Minimum Standards of Treatment for Survivors of GBV' provision and the accompanying Clinical Protocols, which apply to all MHMS employees who are treating survivors of GBV.²⁶ In line with this policy, the MOH has a special medical report form for medical personnel to fill in when dealing with a physical and/or sexual abuse case. The policy, which works to improve responses of the MOH in treating survivors of domestic violence, has two key objectives:²⁷
 - a. Ensure that all MHMS staff members in health care facilities treat survivors of GBV according to minimum standards as set out in the Clinical Protocol on Treatment of Survivors of GBV.
 - b. Help to raise awareness on GBV and to advocate for prevention of violence in the communities in which the MHMS staff members serve.

²⁵ Ministry of Health and Medical Services, Annual Report 2011.

²⁶ Government of Kiribati, Ministry of Health and Medical Services, Policy and Clinical Protocols for Minimum Standards of Treatment of Survivors of Gender Based Violence, Protocol 2012, 4/12/2012

²⁷ Ibid.

11.2. Registered counsellors

Kiribati does not have a recognised professional association of registered counsellors at the moment. The Kiribati Association of Counsellors is a *de facto* association and has been largely ineffective over the years, as there are insufficient financial and human resources to support its operation. Counsellors who are part of this network are generalist counsellors. However, the FPA will stipulate the need to strengthen Kiribati counselling services, which may require the involvement of the Minister for Women in establishing regulations for a national association of Kiribati counsellors (S. 46). What may be needed first are standards for counsellors to meet, and an agreed system for supervision of counsellors.

Counsellors are important for the purposes of the law as they serve multiple functions, including rehabilitation for offenders, trauma counselling for survivors and assisting the court to make its rulings based on a professional assessment and report on either party or both. For this reason, counsellors should be accredited and regulated by government to prevent abuse of the service and ensure that registered counsellors receive proper support through training, regular supervision, and financial compensation.

Furthermore, counsellors need to be familiar with counselling requirements for dealing with both survivors and perpetrators of domestic violence, and in this regard their membership must be dependent on their ability to periodically maintain and upgrade their skills.

In establishing a register of qualified counsellors, it is advisable that the counsellors be trained in a range of issues and not in domestic violence alone. This will ensure that the investment in training of qualified counsellors in Kiribati will be beneficial to a wide range of the population, including victims of domestic violence, their dependents and others seeking counselling services for other needs.

12. Ministry of Women, Youth and Social Affairs (MWYSA)

The creation of the Ministry of Women (formerly Women's Division in MISA) was endorsed by the *Maneaba ni Maugatabu* (Parliament) in August 2013. The MWYSA will be guided by Kiribati's various international (CEDAW, CRC, CRPD), regional (Pacific Leaders Gender Equality Declaration and other Leaders' Communiqués) and national commitments (National Policy and Strategic Plan 2011–2021, Government's Policy Statement for 2012–2015 and the Family Peace Act amongst others) in addressing VAW. Under the FPA, the MWYSA will act as the coordinator in ensuring that various components of the law are working. The law requires the Minister for Women to present a report once a year containing statistics and relevant information to:

- relevant authorities
- the Council established under Section 42 of the Act
- Parliament

This statistics and information required of the Minister's report must contain:

- the number of victims applying to the courts for protection orders each year;
- the types of domestic violence incidences that come before the courts each year;
- an analysis of sentences imposed by the court in domestic violence cases each year; the number of self-referrals and referrals made by the courts and other agencies to counselling services and shelters each year; and
- the effectiveness of all measures adopted by government agencies to combat domestic violence.²⁸

²⁸ See Section 45 of the FPA.

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Various challenges can be identified as the ministry takes on these responsibilities. Key to this will be the coordination role of the Ministry in working across other departments and ministries to ensure that they comply with their statutory obligations under Section 25.²⁹ This will require resources, especially human resources, to ensure that the government is working in sync in addressing DV. Furthermore the Ministry will need to assess how the government as a whole is complying with this section as part of its reporting obligations, mentioned above. The Shared Implementation Plan also identifies core challenges for Kiribati in implementing and reaching its SGBV goals.³⁰

Closely linked to the implementation of the Family Peace Act is the *Implementation of the Children, Young People and Family Welfare System* developed by the Social Welfare Division of the then Ministry of Interior and Social Affairs in March 2013. The Department of Social Welfare is now absorbed into the Ministry of Women, Youth and Social Affairs (MWYSA) and as such the implementation of the Child Protection laws and system by MWYSA will complement the implementation of the Family Peace Act.

As the objective of both laws is addressing violence in the home and community, and avoiding duplication and unnecessary activities, some of the activities in the *Implementation Plan of the Children, Young People and Families Welfare System* should include activities designed under this Implementation Plan; especially since activities are around the appointment and training of social welfare officers.

13. Governance

The responsibilities and reporting processes and procedures in the Family Peace Act can be read throughout the various provisions of the Act. In particular it is important to note Section 9, which provides that 'the Act binds all persons including the Republic' of Kiribati. Hence the implementation of the law is not the responsibility of one particular ministry or one Secretary or Director, but all of the people of Kiribati and all government ministries and departments.

The key coordination role between the government through its ministries and departments, and with other stakeholders like NGOs and faith-based organisations lies with the Ministry of Women *vis-a-vis* the Minister and the Secretary for Women. The MWYSA has the responsibility under the law to create a unified and coherent approach to GBV that is based on a survivor-centred approach with data to inform service delivery. For the law to work, the assigned responsibilities of key stakeholders must be complied with and the reporting obligations diligently observed.

Key stakeholders, such as health workers, education officials (including teachers), and the courts (including judicial staff, court clerks, etc.), have their roles spelled out and defined within the law. It will be up to the relevant authorities within these key ministries to ensure that they comply with their statutory responsibilities. Moreover, the Council appointed under Section 42 is tasked with the core responsibilities of ensuring the workability of this Act.

The table below highlights the governance structures and responsibilities outlined in the Act.

²⁹ All government ministries and department are obligated under Section 26 of the FPA to support and deliver services to help ensure the introduction of public awareness programmes on prevention and the causes and consequences of violence in the family, etc.

³⁰ See *Ibid.* n8, p. 20...

Table 1 – Governance

| Governance Role | Responsibility | Duties | Accountable to: | |
|------------------------|--|---|--------------------------------------|---|
| Government of Kiribati | Minister for Women | <ul style="list-style-type: none"> i. Call for applications for registered counsellors. ii. Declare registered counsellors. iii. Gazette registered counsellors. iv. Ensures the Act is reviewed. v. Appoint Council and present annual Council report to the Maneaba ni Maugatabu. vi. Make regulations that are not inconsistent with this Act. | Maneaba ni Maugatabu | Section 7 |
| | Secretary for Women | <ul style="list-style-type: none"> i. Keep an up-to-date register of declared counsellors. ii. Compile annual statistics and an annual report for the information collected under this section. | Maneaba ni Maugatabu | S. 42 S. 46 |
| | Ministries and Department Heads (Inc Min. of Health) | <ul style="list-style-type: none"> i. Support and ensure the introduction of public awareness programmes on prevention and the causes and consequences of violence in the family and in the community. | Minister for Women | S. 9 S. 44 |
| Courts/ Judiciary | Magistrates and Judges | <ul style="list-style-type: none"> i. Receive, hear and determine applications for Protection Orders, temporary POs, emergency POs, final order or maintenance orders. ii. Makes judicial decisions on all matters and applications relating to DV under the legislation. iii. Prioritise the hearing of applications for POs. | Magistrates and judges respectively. | Sections 11, 13, 14, 15, 16, 17, 18, 19 and 24. |
| | Chief Justice | <ul style="list-style-type: none"> iv. Makes rules providing for and in relation to forms, applications for POs made via telephone and other facilities, partial and full remission of fees, data collection and other relevant matters. | Family Protection Act | S. 45 |
| | Chief Registrar | <ul style="list-style-type: none"> v. Keep a written register of all POs made, granted and declined with reasons. | | S. 12 (5) |
| | Court Clerk | <ul style="list-style-type: none"> vi. If application is received orally, then clerk must reduce it in writing on Form 1 in Schedule 1. | Chief Registrar | S. 12 (3) |

**Implementation Plan for the Te Rau N Te Mwenga
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Table 1 – Governance (contd)

| Governance Role | Responsibility | Duties | Accountable to: | |
|-------------------------|--------------------------------------|--|------------------------|--------------------|
| Police | Police Commissioner (s) | i. Investigate misconduct of police officer(s) for failure to act under the law. | Minister for Women | S. 30 (4) |
| | | ii. Compile annual statistics and an annual report of DV cases reported to the police. | Minister for Women | S. 31 |
| | Officer in Charge of Police Stations | iii. Receive all complaints of DV and investigate, including complaints from health care professionals. | Family Peace Act | S. 33 (2) |
| | | iv. Issue police orders (from rank of constables). | Family Peace Act | S. 26 and 27 |
| | Police Officers | v. Lay charges and prepare file for prosecution; duty to Prosecute. | Family Peace Act | S. 30 |
| | | vi. Ensure that if there is sufficient evidence of domestic violence, there is a legal duty to prosecute. | Family Peace Act | |
| Health | Minister for Health | i. Duty of care established for medical and nursing staff to: <ul style="list-style-type: none"> a) advise the complainant about counselling; or b) refer the complainant to counselling as appropriate; or c) advise the complainant about filing a complaint with the police. | Parliament | S. 32 |
| | | ii. Examine complainant and apply health care protocols around professional standards and confidential treatment. | Family Peace Act | S. 32 (3) |
| Registered Counsellors | Minister for Women | i. Conduct counselling in relation to domestic violence. | Minister for Women | S. 7 |
| | | ii. Make application on behalf of complainant for a protection order. | | S. 11 (2) (a) (ii) |
| Social Service Provider | Social Service Provider | <ul style="list-style-type: none"> i. Advise the victim of the support options available. ii. Refer the victim to counselling. iii. Refer the victim for medical treatment. iv. Advise the victim of their rights and the remedies available under this Act. v. Assist the victim and any dependent children where necessary by taking them to a shelter where available and/or a house of a relative or friend, and liaise with the police in ensuring that protection orders are applied for are obtained and enforced. | Family Peace Act | S. 32 (4) |

13.1. Data collection and monitoring

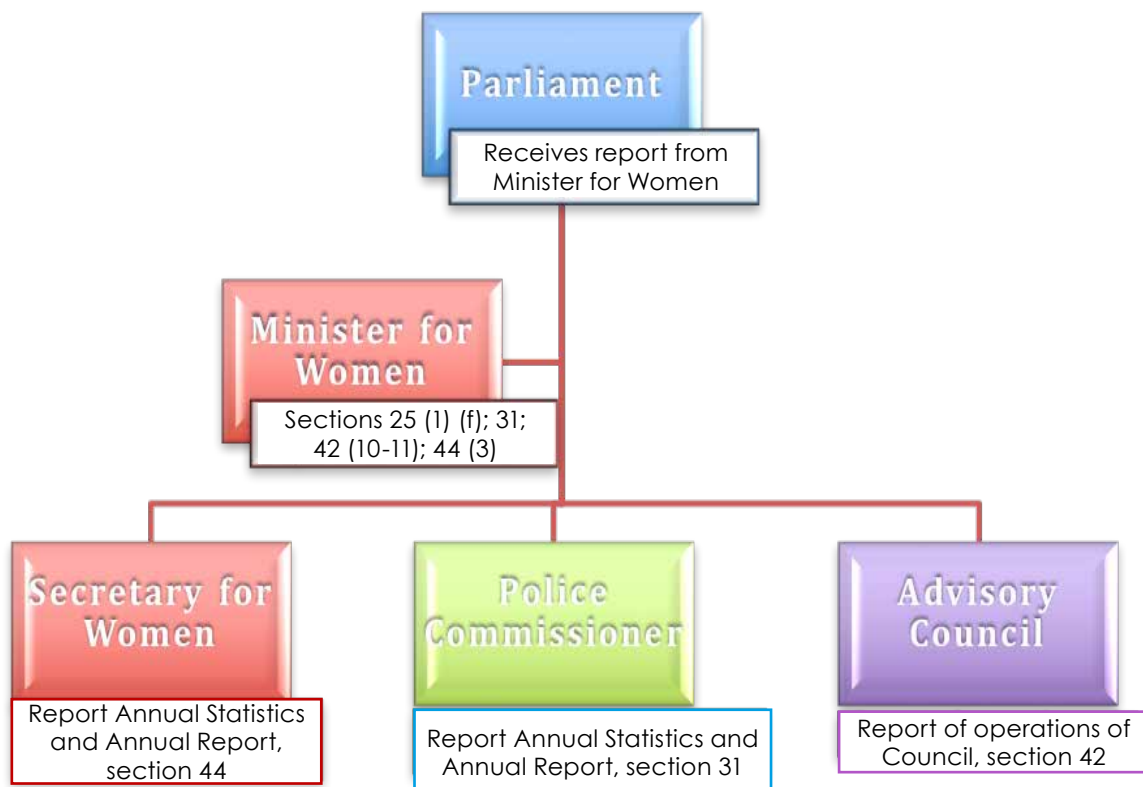
One of the core responsibilities created by the law is the collection, monitoring and reporting of relevant statistics on domestic violence. These statistics will inform the government on the status of relevant responses to domestic violence within its ministries and departments as well as identifying ways in which domestic violence has been addressed. It will also allow the government to see the achievements and challenges in the implementation of the law. Therefore, this statutory responsibility of ensuring the collection, monitoring and reporting of statistics is crucial to the implementation of this law.

To facilitate the proper governance of the proposed Family Peace Act, the responsibilities and roles of key government stakeholders are clearly articulated in the proposed law and discussed in the diagram below. Reporting is an essential component of the Act and reflects the government's commitment to addressing gender-based violence. In this regard, data collection, monitoring and reporting is woven into the law to ensure that appropriate measures are being pursued by key government services through the Kiribati police, judiciary, health services, and FPA Council, and then reported by the Minister for Women to parliament.

13.2. Reporting schedule and responsibilities

The reporting lines of key stakeholders are clearly articulated by the Family Peace Act. Key reports feed into the structures created by the law all the way to Parliament through the Minister for Women. The reporting diagram below illustrates how the reporting responsibilities will be created within the *Te rau N Te Mwenga Act* and the three key reporting responsibilities.

Diagram 1 – Reporting structure



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To ensure that there is accurate reporting from key stakeholders, proper data management is important. While the police and health services have existing data management systems, a review of these systems is crucial in order to ensure that the key information required by the Act is captured in the data. Training and skill building will also be required for those assigned to collate, record and analyse these data to extract the required information, given that each reporting agency must report on specific information. The police, for example, are required (under S. 31) to furnish the following information to the Minister for Women:

- number of domestic violence reports filed;
- number of complaints filed by men;
- number of complaints filed by women;
- number of reported cases that have concluded their investigations;
- total time spent on investigations;
- manner in which the police responded to solve the issue when the report was filed and the time taken in general;
- action taken by the police to resolve a matter and referrals made to other services; and
- outcome of the domestic violence offence.

The Secretary for Women must furnish (under S. 44) the following information to the Minister for Women:

- number of victims applying to the courts for protection orders each year;
- types of domestic violence incidences that come before the courts each year;
- analysis of sentences imposed by the court in domestic violence cases each year;
- number of self-referrals and referrals made by the courts and other agencies to counselling services and shelters each year; and
- effectiveness of all measures adopted by government agencies to combat domestic violence.

The Council (S. 42) is also required under the Act to furnish to the Minister a report of its activities in a year. Section 25 (f) then requires the Minister for Women to submit a consolidated report to Parliament of activities carried out multi-sectorally by government in addressing violence in the home and in the community.

To support the work of the Advisory Council to determine the adequacy of response and prevention measures as identified under item (d) in Table 2, a coordinated system of GBV response provides for regular data collection and information sharing among providers to deliver the best possible services for survivors and improve coordinated approaches. In this regard, all service-providing agencies and departments are expected to collect and share data regarding their services and outcomes in order to support analysis of current response and prevention measures. However, under the general provisions of Section 25, all government departments and ministries must ensure that they are engaging in activities and have programmes in place to address gender-based violence. For this purposes, resource allocation (whether it is financial or through the allocation of key staff members for this activity) and training is crucial so that these key support services are equipped to support the implementation of this legislation through proper documentation and the reporting of relevant information as prescribed by law.

Table 2 – Advisory Council structure

| Governance | Composition | Responsibilities | Responsible to |
|-------------------------|---|---|---|
| Advisory Council | <p>Relevant government agencies:</p> <p>MWYSA Police Judiciary Health Education MIA Finance Planning Attorney General's office Local Government</p> <p>Civil Society CLPWFT AMAK Crisis Centre Church Rep Unamane</p> | <p>To make recommendations to the Minister either on its own motion or upon request by the Minister on:</p> <p>(a) the implementation of this Act and other legislation relating to family law;</p> <p>(b) the implementation of legal aid in relation to this Act;</p> <p>(c) research, monitoring and evaluation of the impact of domestic violence in the community;</p> <p>(d) the adequacy of preventive measures, responses, shelters and counselling support services provided to victims of domestic violence; and</p> <p>(e) any other matter relating to domestic violence and violence against women and children.</p> <p>Prepare an annual report after 31 December of the Council's operations in the year and furnish to the Minister who will forward the same to the Maneaba ni Maungatabu.</p> | <p>Minister for Women</p> <p>Minister for Women to the <i>Maneaba ni Maungatabu</i></p> |

14. Review of the Implementation Plan and the Act

As stressed in the introduction, this Implementation Plan is a working document and will be subject to review either annually or every time the Family Peace Act is reviewed.

The review is to gauge the challenges in the implementation of the law, the positive or negative responses to the law, and to analyse these challenges. The review should also focus on whether those assigned with key responsibilities and roles under the Act are fulfilling their duties or whether there are real challenges in performing their duties.

The review mechanism allows the government to see what these challenges are and design appropriate response strategies to ensure that the law works to its maximum potential.

Other reviews can focus on activities around training. To do so, it is important to understand where training is doing what it sets out to do, and where it falls short, to ensure training achieves maximum impact. Training is an important component of the law and the emphasis in this regard must be on capacity building and ensuring that key actors, such as the police, health, social welfare, counsellors and judicial officers are responding effectively to their assigned roles. To have a working system is to provide victims/survivors with the confidence that their case will be dealt with to the full extent of the law. When this confidence in the system of justice for survivors of violence is evident, then it can be said that the law is working for survivors and through appropriate sentencing options, also for perpetrators.

PART 4 – ROLLOUT OF THE IMPLEMENTATION PLAN

The activities designed for this Implementation Plan are specifically targeted towards ensuring that the law works in practice. It is not about looking at a range of other activities around domestic violence, but rather at how this law alone should work. Other activities may be captured in existing documents such as the following:

- *Shared Implementation Plan to Eliminate Sexual and Gender Based Violence*
- *Government of Kiribati UNJP Programme 2014–2017 in supporting the National Approach to Eliminating Sexual and Gender Based Violence in Kiribati*
- *National Policy and Strategic Action 2011–2021*
- *National Approach to Eliminating Sexual and Gender Based Violence in Kiribati*
- *Ministry of Health and Medical Science Strategy*

The following activities are designed and based on consultations held by RRRT with key government officials in Kiribati, as well as through referencing existing government policies and key documents such as those mentioned above in order to avoid possible duplication of work. However, it is recognised that this Implementation Plan will have activities that are related to or similar to those contained in the Shared Implementation Plan. To facilitate collaboration between the two documents and the rollout of their activities, as well as to assist in sharing resources in their rollout, related activities between the two have been highlighted in this Implementation Plan. It is strongly encouraged that a similar cross-referencing activity is undertaken between this implementation plan and any implementation plans for the *Children, Young People and Families Welfare System* in order to share resources, efforts and outputs as much as possible.

15. Commencement of the Act

The Act has now commenced and it is therefore crucial that all of the stakeholders are implementing the law. MWYSA will need to strengthen its coordination efforts to ensure a smooth application of the Act.

While all agencies are prepared to adopt their responsibilities within this law as directed by the Minister, it is recognised that the geography of Kiribati makes it challenging to ensure that all staff are adequately trained and informed of their roles and responsibilities immediately. In circumstances such as this, it is not uncommon for a grace period to be afforded to agencies.

During this grace period agencies will undertake activities that will ensure that all staff members in all regions are well informed of their roles, responsibilities and duties. This will ensure that the expectations of the community are met.

The implementation tasks have thus been designed under two distinct phases: early implementation before the law is passed, and the period after the law is passed and is in operation.

16. Phase 1 – Early implementation tasks

Early implementation tasks are short-term measures aimed at putting together the necessary building blocks to ensure effective implementation in the long term. The content of the Act, the timeline, and the existing level of expertise, were guiding factors in determining which activities fell under the 'Early Implementation Tasks' category.

The Minister for Women, under powers to make regulations, could consider writing at least two key regulations (one relating to the Advisory Council and the other for registered counsellors) at the early implementation phase, or immediately after the passing of the FPA and before it is enforced. Existing systems, particularly SafeNet,³¹ should be reviewed and possibly strengthened through formal recognition by the government of its services or through a regulation created by the Minister to formally establish the SafeNet system in the islands around Kiribati.

This phase is an important one for the Minister for Women and the government as a whole as it ensures that when the law is enforced, there are no impediments to its successful implementation. Key basic training on the FPA – especially for those directly dealing with the law, that is the police, the judiciary, health workers, counsellors and social welfare – needs to be done before the law is enforced so that those involved are aware of their duties and responsibilities. The appointment of the Council and counsellors is equally important before the law is enforced, and training for them must follow their appointment.

17. Phase 2 – Capacity development, processes and procedures, funding and legal reform

Generally activities listed under this phase are targeted towards ensuring that the law in *de facto* (in practice) works *de jure* (in law). The development of these activities is the outcome of comprehensive consultations with key stakeholders. It is important to note that this phase focuses on three key institutions: **(i) the Kiribati Police Service (ii) the Law and Justice System, and (iii) support services such as health, counselling and social welfare.**

The processes and procedures section considers the challenges faced by the internal governance structures of the key stakeholders as they will be required to absorb the responsibilities and roles required of them as mandated by the Act. At first glance this means reforming their policies, training manuals and materials, or writing new training materials, standard operating procedures, policies or training methodologies to be in line with changes made by the Act.

Having access to basic information – especially in **the I-Kiribati language** – about the contents of the Family Peace Act, is important for informing and educating stakeholders and the public about the law. As such, designs of posters and pamphlets are crucial to dissemination and awareness-raising activities.

The capacity building section is focused on training requirements that are needed to ensure that staff members are appropriately skilled to deal with their roles and responsibilities anticipated under the Act. Capacity analysis is imperative to assess current competencies and how this can be matched through relevant training. Any capacity development requires considerable human and financial resources to ensure it's of a high-quality standard. It is therefore critical that donors and other technical assistance providers work closely with the government to ensure that quality training is delivered in a timely and effective manner.

To make the law work, adequate government funding is crucial. Donor support and technical assistance to addressing some activities should also be sourced by the government to ensure effective implementation of the Act.

³¹ The SafeNet is a committee that consists of community people and organisations that provide frontline services to victims of family violence and child abuse.

18. Guide to Planning Logframe

The Planning Logframe (Annex 1) is a living document and can be added to as development partners, UN agencies, donors etc., develop their own programming support for Kiribati. The contents of the Logframe were built upon the various consultations and discussions led by the Implementation Plan consultation team during the initial stages of the design and development of this implementation plan. Commitments may change depending on various factors and considerations, but the plan is as up-to-date as of December 2016. Further, while the plan may not necessarily commit the different agencies mentioned, they were committed to or had indicated some commitment to the activities mentioned at the time the plan was developed.

The list below highlights the intent and thought process behind each category in the Logframe:

- Number – tool to identify each activity (i.e. EA 1 refers to Early Implementation Activity 1).
- Activity and Output – action required to satisfy the FPA and the standards contained within it.
- Core Responsibility – this identifies the lead agency or partnerships that are accountable for the rollout of the activity and output. The agencies have been identified following consultation and research. It is encouraged that this field be reviewed to ensure the appropriate agency and unit/division has been identified. There are also some activities/outputs where a core responsibility agency has not been. The Government of Kiribati is encouraged to fill in these fields upon receipt of this document and prior to the rollout of the Implementation Plan.
- Other Technical Assistance – this field has been informed by consultations and research into existing relationships between the Government of Kiribati and specialist agencies. These agencies have been listed for recommendation only and it is anticipated that most of the agencies listed will either work together or provide assistance and support to a lead technical assistance agency (i.e. RRRT may provide support to programmes by PPDPV in police training).
- Timeframe – it is envisaged that this Implementation Plan and Log frame will be made effective from the date the Act is passed as Law. All timeframes will thus commence from that date.
- Monitoring and Evaluation (M&E) – these monitoring and evaluation measures have been placed as suggested measures for the activities and outputs. There is a broad range of measures (qualitative and/or quantitative) that can be used to measure output, cultural change, impact of programmes and so on. The ones contained in the Logframe are specific (and largely limited) to the measures that correspond to activity more so than those that measure cultural change. Measuring cultural change may be an activities that the Government of Kiribati wishes to invest in/explore in the future.
- Cost – this field has been left blank as the Ministry of Finance may take leadership in leading the costing exercise along with the relevant implementing agencies. This will facilitate a more accurate costing and encourage accountability and ownership of the activities and the implementation plan by the implementing agencies and the Government of Kiribati.

19. Relationship between the SHIP and this Implementation Plan

There is a strong relationship between the SHIP and this Implementation Plan. Firstly, the two documents both seek to advance the safety and security of women and girls, and facilitate an environment that is supportive of and encourages women and girls to reach their full potential. Secondly, they were both born out of a project funded by UN Women on behalf of the Government of Kiribati as part of the government's broader aim to eliminate sexual and gender-based violence. As such, there is a strong and persistent similarity between the activities contained in the two documents.

While the FPA Implementation Plan has a focused scope of implementing the letter of the law, it is important to acknowledge that this could not be done without the advancement of community awareness, education,

preventative and early intervention programmes. These programmes are well captured in the SHIP and as such do not feature as prominently in the FPA Implementation Plan.

The two documents do, however, contain significant similarity in outputs related to capacity building and strengthening existing services (particularly SafeNet). It is strongly encouraged that the two documents be read together and that genuine efforts are made to try and rollout activities in a way that broadly shares resources, events, forums, workshops and efforts. This requires strong collaboration between the government, civil society and development partners to align and connect work to complement and build on shared work with partners, and to minimise duplication (thus, for example, the rationale for designing the Government–UN Joint Programme on ESGBV). This will ensure that there is as little duplication as possible in training, capacity building and other activities. For instance, a workshop that may be planned on sexual and gender violence will likely contain all the necessary agencies, core responsibility partners and technical experts required to deliver outputs and activities in the capacity development section of the FPA Implementation Plan.

The activities between the FPA and the SHIP that are particularly related (i.e. SafeNet outputs) have been highlighted in red to draw attention to the need to read this activity along with the SHIP.

References and additional resources

- Government of Kiribati (n.d.). *Shared Implementation Plan to Eliminate Sexual and Gender Based Violence in Kiribati (Zero Draft: 21 August 2013)*.
- Kouraiti Benatio, Honourable Minister. (2010). *Kiribati Family Health and Support Study: A study on violence against women and children*. Noumea: SPC.
- Secretariat of the Pacific Community (2010). *Kiribati Family Health and Support Study: A study on violence against women and children*. Noumea: SPC.
- Secretariat of the Pacific Community, Pacific Regional Rights Resource Team (SPC RRRT) (July 2013). *Kiribati: Legal Analysis on Violence Against Women – Drafting Options for Legislative Reform*. Suva: SPC.
- UN Department of Economic and Social Affairs, Division for the Advancement of Women (July 2010), *Handbook for Legislation on Violence Against Women*, UN Doc ST/ESA/329.
- UN Division for the Advancement of Women and UN Office on Drugs and Crime (2008), *Good Practices in Legislation on Violence against Women*, Report of the Expert Group Meeting, Vienna, 26–28 May 2008.
- UNICEF (2000). Domestic Violence against Women and Girls. *Innocenti Digest*, No. 6 – June.
- UN Joint Programme. 2013–2018. Un-published in-house document.
- World Bank (2011). *World Development Report 2012: Gender Equality and Development*. Washington DC: World Bank.
- WHO (2005). *WHO multi-country study on women’s health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women’s responses*. Geneva: World Health Organization.

Graph

- **Graph 1** – Secretariat of the Pacific Community (2010). *Kiribati Family Health and Support Study: A study on violence against women and children*. (p. 82) Noumea: SPC.
- **Graph 2** – *ibid.*, p. 82.

Additional Resources

- The Crown Prosecution Service (March 2009). *CPS Policy for Prosecuting Cases of Domestic Violence*. Retrieved from <http://www.cps.gov.uk/publications/docs/DomesticViolencePolicy.pdf>
- The Crown Prosecution Service (n.d.). *Domestic Violence (including Aide-memoire)* – Guidance on prosecuting cases of domestic violence. Retrieved from http://www.cps.gov.uk/legal/d_to_g/domestic_violence_aide-memoire/index.html
- World Health Organization (2010). *A Handbook for improving HIV testing and counselling services – field-test version*. Retrieved from http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&ved=0CEsQFjAC&url=http%3A%2F%2Fwhqlibdoc.who.int%2Fpublications%2F2010%2F9789241500463_eng.pdf&ei=hNSoUsGsHqiOiAfBnYHgAw&usg=AFQjCNHndomOvTNz-fEnsPWhIYwkETGUog&sig2=u6sdOIBqIA-a51xGTr5Qhw

ANNEX 1: Planning Logframe

NOTE: The activities in this logframe complement existing funding frameworks including:

- the Shared Implementation Plan (SHIP);
- the reproductive, maternal, newborn, child and adolescent health (RMNCAH) and the Essential Services through UN Women, UNICEF, WHO and UNFPA Kiribati; and
- any other funding document that may be designed in the future to complement this Implementation Plan.

| EARLY IMPLEMENTATION ACTIVITIES | | | | | | | | | |
|---------------------------------|---|---|---|---|------------------------------|------|------|--|--|
| Number | Activity | Output | Lead Ministry | Other Technical Assistance | Timeframe for Implementation | | | M & E | Cost (AUD) |
| | | | | | Yr 1 | Yr 2 | Yr 3 | | |
| EA1 | Establishment of the Advisory Council [Section 42] | Creation of a regulation on the role, purpose, schedules and responsibilities of the Council, including terms of appointment and conditions of removal. Appointment of members of the Council. <ul style="list-style-type: none"> ▪ Subject to resignations, retirement, terminations or death, appointment will be ongoing | <ul style="list-style-type: none"> ▪ MWYSA ▪ MOJ (AG's office) | <ul style="list-style-type: none"> ▪ MWYSA ▪ UN Women ▪ SPC RRRT | X | X | X | <ul style="list-style-type: none"> ▪ Regulations established and available in line with purpose of Act. ▪ Members appointed in line with Act and Terms of Reference (TOR). | Nil, but the activities of the Council will require some budget support. |
| EA2 | Establishment of the Emergency Fund <i>(The purpose of the fund is to ensure that survivors of DV are able to access funding support post-domestic violence that will cover things such as relocation costs, flights to outer islands or to Tarawa, meals, accommodation if possible etc., but subject to the rules and policy created).</i> | Creation of policy/rules on the purposes and usage of the Fund. Creation of information sheet on the purposes and eligibility for access of the Fund to be distributed to government departments, NGOs and civil society organisations working in DV. <ul style="list-style-type: none"> ▪ Reprints on the second year and onwards | <ul style="list-style-type: none"> ▪ MWYSA in partnership with the MOF and the AG's office (MOJ) | <ul style="list-style-type: none"> ▪ MoH ▪ UN Women | X | X | X | <ul style="list-style-type: none"> ▪ Fund policy and rules established and available in line with purpose of Act. ▪ Information sheet established and available in line with purpose of the Fund and in compliance with regulations. | |

Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014

| Number | Activity | Output | Lead Ministry | Other Technical Assistance | Timeframe for Implementation | M & E | Cost (AUD) | | | | | | | | | | | | |
|--------|---|--|---|--|--|-------|--|--------|---|--|--|---|--|--|---|---|---|---|--|
| EA3 | <p>Integrated multi-sector training for implementing agencies, NGOs and civil society on the Te Rau n Te Mwenga Act with a focus on:</p> <ul style="list-style-type: none"> domestic violence; Te Rau n Te Mwenga Act; powers and responsibilities of stakeholders, including police, health, courts; and responses. | <p>Development of a multi-sectoral training package/curriculum for partners and stakeholders.</p> <p>Key senior officials from the police, judiciary, health, counselling, and education, NGOs, civil society and other agencies working in DV to attend the multi-sector workshop.</p> <p>More awareness created on the Te Rau n Te Mwenga Act and stakeholders are aware of their roles and responsibilities.</p> <p>Each agency to develop a communication strategy for their respective agency and community on key messaging around advocacy and awareness of the Te Rau n Te Mwenga Act.</p> | <ul style="list-style-type: none"> MWYSA in partnership with: <ul style="list-style-type: none"> MOH MOJ KPS, Judiciary and other government ministries and departments | <ul style="list-style-type: none"> SPC RRRT UNFPA UN Women FWCC PPDVP UNICEF | <p>6 months</p> <p>Joint statement or MOU on how all agencies will work better together to be produced by the participants of the workshop.</p> <p>Communication of joint statement/MOU should be included in the above communication strategy.</p> | | <p>Depending on training needs, funding can either be budgeted or sourced from donors or through technical support from partners including SPC, PIFS and UN Women.</p> | | | | | | | | | | | | |
| EA4 | <p>Guidelines or regulations on qualifications and related criteria for the establishment of registered counsellors</p> <p>(Section 7)</p> | <p>Guidelines or regulations researched, drafted and published.</p> <p>Development of standard guidelines for counselling adopted.</p> <p>Scholarship opportunities for students to pursue psychology and relevant qualifications consistent with the published guidelines/regulations, and qualified supervisors hired.</p> <p>Minister for Women calls for application for registered counsellors.</p> <p>Training and capacity development for appointed counsellors under the Act.</p> | <ul style="list-style-type: none"> MWYSA AG's office (MOJ) MWYSA in consultation with UNW Public Service Commission Minister MWYSA | <ul style="list-style-type: none"> SPC RRRT UN Women UNFPA | <table border="1"> <thead> <tr> <th>Yr. 1</th> <th>Yr. 2</th> <th>Yr. 3+</th> </tr> </thead> <tbody> <tr> <td>X</td> <td></td> <td></td> </tr> <tr> <td>X</td> <td></td> <td></td> </tr> <tr> <td>X</td> <td>X</td> <td>X</td> </tr> </tbody> </table> | Yr. 1 | Yr. 2 | Yr. 3+ | X | | | X | | | X | X | X | <ul style="list-style-type: none"> With relevant technical assistance, standards, indicators and qualifications for counselling services researched and published for the Kiribati context. Government assistance to counsellors to attain relevant qualifications. | <p>80,000 (costing includes training, placement in specialised counselling programmes)</p> |
| Yr. 1 | Yr. 2 | Yr. 3+ | | | | | | | | | | | | | | | | | |
| X | | | | | | | | | | | | | | | | | | | |
| X | | | | | | | | | | | | | | | | | | | |
| X | X | X | | | | | | | | | | | | | | | | | |

| Number | Activity | Output | Lead Ministry | Other Technical Assistance | Timeframe for Implementation | M & E | Cost (AUD) | | | | | | |
|---|--|--|--|---|---|---|---|--------|------|------|------|--|--|
| EAS **cross-reference with SHIP** | Strengthen SafeNet to further support victims of sexual and gender-based violence | SafeNet is strengthened through its formal recognition by the confirmation of a regulation to govern its activities and work. SafeNet coordinator position is absorbed by MWYSA as a permanent position. | <ul style="list-style-type: none"> MWYSA AG's office (MOJ) | <ul style="list-style-type: none"> MHMS AMAK Unamane Local councils and mayors KPS MOE UNICEF UNFPA UN Women World Bank SPC RRRT | 6 months | MOU and regulations circulated to member agencies to confirm. Formal confirmation of attendance and acceptance to be sent to SafeNet Coordinator for each SafeNet member. | <i>Different funding sources to be identified and confirmed</i> | | | | | | |
| EAG | Information kit in both I-Kiribati and English, explaining the processes and procedures for police officers in dealing with DV, which is also accessible to the public | Coordinator for SafeNet is appointed in line with Strategic Area 4 of the Policy and Strategic Action Plan to implement the various actions identified therein. Information kit drafted, finalised and circulated to all police stations and posts, including outer islands and community policing posts. Posters created for the public to explain their rights to report cases and have them documented and investigated by the police, and any other assistance they can expect from the police (e.g. referrals to other providers). Include information on where to report misconduct. | <ul style="list-style-type: none"> To be articulated in the SafeNet regulations | As above | 1 month within creation of SafeNet regulations. | Coordinator position description is drafted and confirmed. Coordinator is appointed and formally accepts. Formal letter of support from Coordinators management (or Minister) to be submitted to SafeNet members. | 6,000 (costing includes printing, paper, ink, postage) | | | | | | |
| | | | <ul style="list-style-type: none"> Director Training, KPS DVSO Unit, KPS | <ul style="list-style-type: none"> WYMSS SPC RRRT PPDVP AFC AFP UNFPA UN Women UNICEF | <table border="1"> <tr> <td>Yr. 1</td> <td>Yr. 2</td> <td>Yr. 3+</td> </tr> <tr> <td>\$3k</td> <td>\$2k</td> <td>\$1k</td> </tr> </table> | Yr. 1 | Yr. 2 | Yr. 3+ | \$3k | \$2k | \$1k | Information kits are finalised and circulated to all policing locations, including outer islands to inform all police of their roles, responsibilities and duties and the rights and protections contained in the law. | |
| Yr. 1 | Yr. 2 | Yr. 3+ | | | | | | | | | | | |
| \$3k | \$2k | \$1k | | | | | | | | | | | |

Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014

| Number | Activity | Output | Lead Ministry | Other Technical Assistance | Timeframe for Implementation | | | | M & E | Cost (AUD) |
|--------|---|---|--|--|--|-------|--------|---|--|--|
| | | | | | Yr. 1 | Yr. 2 | Yr. 3+ | | | |
| EA7 | A fact sheet or pamphlet, explaining the court processes and procedures and duties of magistrates when dealing with DV under Te Rau n Te Mwenga Act, which is also accessible to the public | <p>Fact sheet/pamphlet to be drafted and circulated to all court staff, officials and magistrates, including all staff and offices in the outer islands.</p> <p>Posters created for the public in order to explain their rights to submit cases to the courts, steps involved, and other relevant information and resources.</p> | <ul style="list-style-type: none"> Chief Registrar's Office | <ul style="list-style-type: none"> AG's office MWYSA SPC RRRT | Yr. 1 | Yr. 2 | Yr. 3+ | | <p>Fact sheets are finalised and circulated to all court staff in Kiribati, including outer islands, to inform all staff (of all levels and roles) of their roles, responsibilities and duties.</p> | 6,000 (costing includes printing, paper, ink, postage) |
| EA8 | A fact sheet (preferably in the I-Kiribati language) on the statutory responsibilities and duties of healthcare providers, which is also accessible to the public | <p>Fact sheet to be drafted and circulated to all health workers in Kiribati, including outer islands.</p> <p>Posters created for the public in order to explain their rights to health care, including documentation of SGBV, and any other assistance they can expect from health providers (e.g. referrals).</p> | <ul style="list-style-type: none"> MHMS | <ul style="list-style-type: none"> MWYSA UNFPA SPC RRRT | Yr. 1 | Yr. 2 | Yr. 3+ | X | <p>Fact sheets are finalised and circulated to all health services in Kiribati, including outer islands, to inform all health professionals and staff (of all levels and roles) of their roles, responsibilities and duties and the rights and protections contained in the law.</p> | Activity covered under RMNCAH (Activity 6.3.4) |
| EA9 | A fact sheet (preferably in the I-Kiribati language) on the statutory responsibilities and duties of counsellors, which is also accessible to the public | <p>Fact sheet to be drafted and circulated to all health care facilities, government departments (including police and justice offices) and to all counsellors in Kiribati, including outer islands.</p> <p>Posters created for the public in order to explain their rights to confidentiality and certain standards of treatment by counsellors.</p> | <ul style="list-style-type: none"> MWYSA MHMS | <ul style="list-style-type: none"> FWCC SPC RRRT | Yr. 1 | Yr. 2 | Yr. 3+ | X | <p>Fact sheets are finalised and circulated to the offices of all implementing agencies and NGOs working in DV, including clarifying roles, responsibilities and contacts of service providers, etc.</p> | 6,000 |
| | | | | | <p>Note: All the crosses refers to suggested timeframe for implementation, so this activity can be implemented over two years.</p> | | | | | |

| LEGAL REFORMS | | | | | | | |
|---------------|---|---|--|--|-----------|---|------------|
| Number | Activity | Output | Core Re-sponsibility | Other Technical Assistance | Timeframe | M & E | Cost (AUD) |
| LR1 | Amendment of the Magistrates' Court Ordinance to increase the criminal jurisdiction of the Magistrates' Court | Section 24 (1) of the Magistrates' Court Ordinance is in line with Section 34 of the Te Rau n Te Mwenaga Act. | <ul style="list-style-type: none"> AG's office (MOJ) Judiciary | <ul style="list-style-type: none"> AFC | 12 months | Section 24 (1) of the Magistrates' Court Ordinance is developed in line with Section 34 of the Te Rau n Te Mwenaga Act. | MOF |
| LR2 | Review of Te Rau n Te Mwenaga Act | <p>After five years of implementation of the Act, an analysis should be made on whether the Act is performing per the objectives of the Act or if there is a need to review certain areas or sections of the Act.</p> <p>(Areas identified as possible reform areas include: Section 27 – if this power can be delegated when there are no such ranked police officers on the outer islands.)</p> | <ul style="list-style-type: none"> MWYSA and AG's office (MOJ) | <ul style="list-style-type: none"> SPC RRRT UN Women | 5 years | Review of implementation of Te Rau n Te Mwenaga Act and law reforms identified. | |

| PROCESSES AND PROCEDURES | | | | | | |
|--------------------------------------|---|---|--|---|--|---|
| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E (Costs in AUD) |
| Kiribati Police Service (KPS) | | | | | | |
| PP1 | KPS finalise their Standard Operating Procedures on dealing with DV cases reported to the various police stations <i>(SOPs will deal specifically with police procedures based on Te Rau n Te Mwenga Act as well as accepted universal best practice taking into consideration both a human rights and gender-based lens.)</i> | SOP is drafted and communicated to all KPS staff, including community policing officers and outer island stations. <ul style="list-style-type: none"> All cases received at police stations are registered, including actions taken by the police on each complaint. SOPs are posted in visible areas in all police stations to enable police officers to follow the procedures established for the receipt of complaints. | <ul style="list-style-type: none"> Director Training, KPS Policy and Planning Unit, KPS DVSO Unit, KPS MWYSA | <ul style="list-style-type: none"> PPDVP AFP SPC RRRT UN Women | 12 months | 1000–3000 <i>(Costing includes printing ink, papers and postage.)</i> |
| PP2 | Amend existing police training manual and courses materials to include DV and DV law, and expected responses, police powers and police orders | Amendment and updating of the police manuals and course materials to include the Te Rau n Te Mwenga Act and understanding of DV, including power, control, gender, etc. Identification and certification of qualified trainers to facilitate the new courses on DV. Develop training package for Te Rau n Te Mwenga Act. | <ul style="list-style-type: none"> Director Training, KPS DVSO Unit, KPS | <ul style="list-style-type: none"> SGBV Unit MWYSA PPDVP SPC RRRT | 12 months | 10,000 <i>(Costing includes printing of revised manuals.)</i> 5,000 |
| | | Amendment and updating of all police training manuals and materials, including those used for the Police Recruit Training Course and the Mentor Programme to reflect the Te Rau n Te Mwenga Act, and an understanding of DV. | <ul style="list-style-type: none"> Director Training, KPS DVSO Unit, KPS | <ul style="list-style-type: none"> MWYSA PPDVP SPC RRRT | 1–3 years (i.e. 2016–2018) <i>[Materials are then reviewed for relevance and context.]</i> | 5,000 <i>(Costing includes printing/Publishing costs.)</i> |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|--------|---|---|---|--|----------------------------|---|---|
| PP3 | Strengthen, properly maintain and document all DV cases reported in all police stations | <p>A registry book is developed and maintained in all stations recording DV cases, which are then sent to the DVSO every month.</p> <p>(DVSO Unit to oversee this activity.)</p> <p>Review of the family violence database CIMAS to ensure usability of the system and exhaustiveness of the data captured.</p> <ul style="list-style-type: none"> ▪ All DVSO staff should also be trained in the use of the database to ensure business continuity and on-going use of the database. ▪ Police to report on bi-monthly basis (timing) to MWYSA on the DV data collected and their analysis of the data. | <ul style="list-style-type: none"> ▪ All OICs, KPS in partnership with DVSO Unit ▪ DVSO Unit, KPS ▪ Crime Statistics Unit ▪ MYWSA to follow up on reports | <ul style="list-style-type: none"> ▪ PPDVP ▪ PPDVP | <p>2016</p> <p>Ongoing</p> | <p>DVSO Unit to maintain a log book acknowledging receipt of the registry from all police stations each month. This information should be used to inform the compliance of the stations to this activity as well as to inform analysis of the compliance to the Te Rau n Te Mwenga Act by the police stations.</p> <p>Family violence database is reviewed to allow for extraction of statistics and analysis as needed by the DVSO Unit.</p> | <p>1,000</p> <p><i>(Costing includes purchase of registry book and sending to all stations.)</i></p> <p>PPDVP</p> |

Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (costs in AUD) |
|--------|---|---|--|--|---|---|--|
| PP4 | Strengthen complaint mechanisms and disciplinary measures for police misconduct | <p>Complaint mechanism for community to lodge grievances on police misconduct made widely available and transparent.</p> <p>Disciplinary Procedures (within SOPs) for police misconduct updated to reflect the Te Rau n Te Mwenga Act and communicated to all police staff to encourage compliance to the high standards of police service and both personal and professional conduct in relation to domestic violence.</p> | <ul style="list-style-type: none"> Police Commissioner Professional Standards Unit | <ul style="list-style-type: none"> PPDVP AFF | 12 months | <p>Complaint mechanism established and agreed by all parties.</p> <p>Information on this mechanism available publicly, includes public information campaigns (radio, etc.).</p> <p>Mechanism includes monitoring of effectiveness and redress.</p> | |
| PP5 | Strengthen the DVSO Unit through appropriate resourcing and personnel <i>(This will include periodic reviews of staffing, human resourcing as well as the need to improve on assets such as computers, software development, office equipment and vehicles.)</i> | <p>DVSO Unit is staffed by appropriately qualified and trained personnel, available when needed, including recruitment of additional human resources.</p> <p>Policy and procedures for the reimbursement of DVSO Unit in circumstances where finances are required to provide overnight assistance (including food), transport and other immediate costs.</p> | <ul style="list-style-type: none"> Police Commissioner | <ul style="list-style-type: none"> PPDVP SPC RRRT | 2–3 years | <p>New personnel recruited who are trained in gender, human rights and SGBV, and are able to implement the new legislation.</p> <p>Policies and procedures developed that are in line with the purpose of the Act. Policy is reflective of resources and support available.</p> | <p>10,000 <i>(Costing includes salary of two constables.)</i></p> <p>Refer to existing police policy</p> |
| PP6 | Communication of Te Rau n Te Mwenga Act to community | Production of posters and/or other communication publications to raise awareness and inform the public on procedures for the Te Rau n Te Mwenga Act, including the duties of police and police orders. | <ul style="list-style-type: none"> DVSO Unit, KPS Community Policing | <ul style="list-style-type: none"> SPC RRRT UN Women FWCC | To be divided into a two-year timeframe | <p>Communication items published/printed and displayed for the public in key locations: all police stations and community police stations, health, counselling, legal services, social welfare offices, local councils, etc.</p> | <p>10,000 <i>(Costing includes radio, poster, banners, billboards.)</i></p> |

| PP7 | | JUDICIARY | |
|--|---|---|---|
| Develop records management system for DV cases | Development of a records/data management system to record all DV related cases in the Judiciary, including in outer islands. Data to be captured includes but not limited to: | <ul style="list-style-type: none"> ▪ Chief Registrar ▪ All sitting Magistrates ▪ High Court Registry | <ul style="list-style-type: none"> ▪ Pacific Judicial Strengthening Initiative (PJSI) ▪ AFC ▪ PPDVP |
| | <ul style="list-style-type: none"> ▪ disaggregated by sex, gender and age of complainant, location of complaint, type of order sought; ▪ reasons for refusal or grant of PO; ▪ any children involved in the application; ▪ further order of the court, time and date of complainant's first engagement with the court amongst any other relevant information. The same information should be kept on the alleged perpetrator. | <ul style="list-style-type: none"> ▪ Chief Registrar ▪ High Court Registry | <ul style="list-style-type: none"> ▪ PJSI ▪ AFC ▪ SPC RRRT |
| | SOP on the records/data management system to be developed and communicated to all court staff. Training for all relevant court staff (including in outer islands) on the SOP and the records/data management system. | <ul style="list-style-type: none"> ▪ Chief Registrar ▪ High Court Registry | <ul style="list-style-type: none"> ▪ PJSI ▪ AFC |
| | | 2-3 years | A data/records management system is developed and communicated to all relevant court staff (including outer islands) to capture data required by the FPA including type of violence, finding of court, sentence of court, reasons for the sentence or why case could not proceed etc. |
| | | 2-3 years | Communication to all staff is completed. |
| | | 2-3 years | All staff trained on the system and SOP to facilitate consistency and accuracy of information. |
| | | | 20,000 (Costing includes new computer software for data, and registry book, training for personnel for outer islands courts on the use of the data system.) |

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|--|---|---|--|--|--|
| PP8 | Develop a Magistrates' manual or bench book | Drafting of a Magistrates' manual containing information on the management, roles, responsibilities and duties of justice staff in relation to DV (and other relevant court issues i.e. SGBV, assaults etc.). | <ul style="list-style-type: none"> Chief Registrar PJSI AFC SPC RRRT | 2-3 years | 100,523 (Proposal to Australian Aid.) |
| PP9 | Communication and awareness around the Te Rau n Te Mwenga Act to the local community in Kiribati | Production of posters and/or other communication publication, to raise awareness and inform the public on procedures for the Te Rau n Te Mwenga Act and the courts, including how to file cases for a protection order. | <ul style="list-style-type: none"> Chief Registrar MWYSA UN Women SPC RRRT | 12 months | 5,000 (Costing includes poster, radio awareness, IEC materials.) |
| OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS | | | | | |
| PP10 | Recruitment of additional qualified staff into the Office of the DPP | <p>Recruitment of prosecutors to be able to absorb the demand of the prosecution services especially on DV-related matters.</p> <p>Training of new and active prosecutors regarding the Te Rau n Te Mwenga Act implementation and monitoring.</p> | <ul style="list-style-type: none"> DPP Attorney General (MOJ) Australian Aid through the AVI programs etc. | Pending donor funding | 58,000 (Costing includes hiring of three legal officers with housing allowance.) per DPP Plans |
| HEALTH AND SUPPORT SERVICES | | | | | |
| PP11 | Implement, in line with the MHMS Strategic Objective 6 of the Strategic Plan, robust and consistent processes for the collection, recording and security of DV data at all hospitals and health centres | <p>Effective and efficient processes are in place for the collection, recording and security of DV data.</p> <p>See activities 6.1.1; 6.1.2; 6.2.1; 6.2.2; in the National Strategic Plan.</p> <p>MHMS Strategic Plan: Strategic Action 6.2 Improve health care facilities and systems or management, treatment and care of victims of GBV.</p> <p>MHMS Strategic Plan: Strategic Action 6.3 Build the capability and capacity of the health workforce so that it is better able to meet the health care needs of victims of GBV.</p> | <ul style="list-style-type: none"> MHMS UNFPA WHO | Timelines are as identified in the Ministry of Health's Strategic Plan | See funding detail in the RMNCAH and funding allocation from the Essential Service project. |

| | | | | | | | |
|-------------|--|---|--|--|---|---|---|
| <p>PP12</p> | <p>Review the existing <i>Policy and Clinical Protocols for Minimum Standards of Treatment of Survivors of Gender Based Violence, Protocol No. 2010</i> to ensure it is consistent with the Te Rau n Te Mwenga Act</p> | <p>Health protocol to set out clear guidelines on how health workers report to KPS and other service providers on any case of domestic violence it receives.</p> <p>MHMS Strategic Plan: Strategic Action 6.1 MHMS to implement Standard Operating Procedure of Eliminating Sexual and Gender Based Violence (ESGBV) policy in line with the national policy taking into account constant reviews and updates.</p> | <ul style="list-style-type: none"> ▪ MHMS | <ul style="list-style-type: none"> ▪ UNFPA ▪ FWCC ▪ UNICEF ▪ WHO | <p>Timelines are as identified in the Ministry of Health's Strategic Plan</p> | <p>Review completed and SOP enforced.</p> | <p>Funding details are provided in the RM-NCAH and support also through the Essential services project.</p> |
|-------------|--|---|--|--|---|---|---|

| CAPACITY DEVELOPMENT | | | | | | | |
|----------------------|--|--|--|---|------------------------------|---|--|
| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
| MULTI-SECTOR | | | | | | | |
| CD1 | Annual visits of key personnel from the Te Rau n Te Mwenga Act implementing agencies to be placed overseas with related service ministries for observation and skills building | <p>Study on the feasibility of this programme (cost versus benefit) to be completed and submitted to the Te Rau n Te Mwenga Council to endorse or amend.</p> <ul style="list-style-type: none"> Proposed study placements can include placements for counsellors, nurses and doctors, police, judicial officers, MWYSA staff, etc. <p>If endorsed by the Te Rau n Te Mwenga Council – MOU with related service ministries to be negotiated, finalised and endorsed (i.e. Kiribati Police with Australian/NZ/Fiji Police Force).</p> | <ul style="list-style-type: none"> MWYSA in partnership with all implementing agencies | <ul style="list-style-type: none"> PPDVP UN Women Australian Aid (DFAT) | Dependent on funding support | Each participant develops a work plan for action, which they report against in six-month intervals. | Per budgetary allocation <i>(MHMS has this cost built into their existing Strategic Plan 2016.)</i> |
| CD2 | Strengthen the capacity of key personnel identified in the Te Rau n Te Mwenga Act by incorporating pre-service training on SGBV and DV as part of training curriculum within the training institutions | <p>If endorsed by the Te Rau n Te Mwenga Council – Terms of Reference, eligibility and application criteria and processes, expected outputs (including sharing of lessons learned) drafted and communicated to the relevant agencies to commence application process.</p> <p>Training curriculum within the police, nursing, educational institutions to include addressing SGBV and DV issues.</p> <ul style="list-style-type: none"> Key personnel have the skills, knowledge, capacity and attitudes/behaviours, which will enable them to fully implement the Te Rau n Te Mwenga Act, measured by KAP surveys before and after each training session. | <ul style="list-style-type: none"> MHMS (PS/Director) Director Training, KPS Principal Teachers Training Colleges | <ul style="list-style-type: none"> UN Women PPDVPD SPC RRRRT WHO UNFPA | 12 months and then ongoing | <p>Application process opened and applications received.</p> <ul style="list-style-type: none"> Training curriculum revised to cover SGBV. Qualified trainers developed/hired. Appropriate training and awareness provided that fully enable key personnel to implement the Te Rau n Te Mwenga Act, measured by regular evaluations. | |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|---------------|---|---|---|---|---|---|--|
| CD3 | With the support of government departments and ministries deliver public awareness programmes on prevention, causes and consequences of DV, including how to seek help and how to support others needing help | Public awareness programmes are delivered in collaboration with other related initiatives and national, regional or international events on DV and SGBV. | <ul style="list-style-type: none"> ■ MWYSA ■ Police ■ Health ■ Social Welfare ■ Justice ■ Education ■ Others | <ul style="list-style-type: none"> ■ UNW ■ SPC RRRRT | 1–2 years | <p>Information provided in various public locations, radio, etc., with clear information on the noted topics.</p> <p>Information presented is guided by analysis of case data.</p> | (C 50,000 costs are divided as per the communications costs identified by stakeholders.) |
| POLICE | | | | | | | |
| CD4 | Training for senior police (OICs and above) on the Te Rau n Te Mwenga Act and related leadership responsibilities | All senior police (from OIC level and above) to attend a training session on the Te Rau n Te Mwenga Act, and related issues, including DV, SGBV, human rights, leadership on above issues and the roles, responsibilities and duties of police and police management. | <ul style="list-style-type: none"> ■ Director Training, KPS ■ DVSO Unit, KPS ■ MWYSA | <ul style="list-style-type: none"> ■ PPDVP ■ AFP ■ SPC RRRRT | In three-year periods with modalities, including either bringing together all or four islands per training on location. | All OICs and above are able to articulate what their roles and responsibilities are under the Te Rau n Te Mwenga Act as well as leaders of KPS. Measured by annual survey of senior police practices and attitudes. | 60,000 (Costs include venue, meals, airfares for those in outer islands, per diems.) |
| CD5 | Training for all police officers (including community policing units, FASO and special constables) on Te Rau n Te Mwenga Act and related issues | All police officers (including community policing units, FASO and special constables) to attend training on FBP and related issues, including duty of care, DV, SGBV, human rights and gender inequality. | <ul style="list-style-type: none"> ■ Director Training, KPS ■ DVSO Unit ■ MWYSA | <ul style="list-style-type: none"> ■ PPDVP ■ AFP ■ SPC RRRRT | 12 months and then ongoing. | All police are trained in the Te Rau n Te Mwenga Act within the first year of the FBP and then annually to maintain high service standards in responding to DV. | 100,000 (as per above) |
| CD6 | Training of Trainers (ToT) qualification for DVSO Unit | All staff in the DVSO Unit to attain a ToT qualification to enable them to assume primary training role in the Te Rau n Te Mwenga Act, DV and related issues. This training could also include retired police trainers in order to strengthen and retain local expertise and knowledge. | <ul style="list-style-type: none"> ■ Police Commissioner, KPS | <ul style="list-style-type: none"> ■ TBD | 2–3 years | All DVSO staff members are qualified in ToT and are lead facilitators in Te Rau n Te Mwenga Act, DV and SGBV training for the police force. | 15,000 (Cost include identifying ToT programme and delivery.) |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|------------------|---|--|--|---|-----------|---|---|
| CD7 | Specialised training for police prosecutors on DV and the Te Rau n Te Mwenga Act | Development or identification of specialised training for police prosecutors on the Te Rau n Te Mwenga Act and case management for domestic violence. Training should also include best practice on DV, SGBV, gender inequality, human rights, early identification of DV, collection of evidence and strengthened prosecutorial practice in the above issues. | <ul style="list-style-type: none"> Officer in Charge, police prosecutions DPP Director Police training DVSO Unit, KPS Police Commissioner | <ul style="list-style-type: none"> MWYSA PPDVP PJDP SPC RRRRT | 1–2 years | All police prosecutors are trained in and practice improved case management of DV cases. This may be evident by success of prosecutions and improved timeliness of case management. | 15,000 per above costs |
| CD8 | Incorporate human rights, gender equality, SGBV, DV and related issues in police curricula | Integration of human rights, SGBV, DV and related issues into existing police training sessions to encourage a police force that is consistent with good practice in human rights and considerate of issues relating to SGBV, DV, gender inequality and works actively to respond to and eliminate these issues. | <ul style="list-style-type: none"> Director Training, KPS DVSO Unit, KPS | <ul style="list-style-type: none"> MWYSA SPC RRRRT PPDVP | 1–2 years | All core education programmes have an element of human rights principles and gender-based issues integrated into them. | 10,000 |
| JUDICIARY | | | | | | | |
| CD9 | Training for magistrates and lay magistrates on the Te Rau n Te Mwenga Act and domestic violence in general | All magistrates are trained on DV and their roles, responsibilities and duties under the Te Rau n Te Mwenga Act. | <ul style="list-style-type: none"> Chief Registrar | <ul style="list-style-type: none"> MWYSA PJDP SPC RRRRT | 1–2 years | All magistrates have attended at least one training session on the Te Rau n Te Mwenga Act and demonstrate good understanding of it measured by evaluations. | 150,000 (per training and includes cost of airfares, per diems, venue and meals). |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|--------|--|--|--|--|--|--|----------------|
| CD10 | Review of the Standing Court Procedures | Amendment of the Standing Court Procedures to ensure consistency with the Te Rau n Te Mwenga Act. | <ul style="list-style-type: none"> Chief Registrar | <ul style="list-style-type: none"> AG's office AFC | 6–12 months | Review is completed and identified amendments are undertaken and available. | |
| | | <p>Analysis of the application of the procedures to assess the handling of DV-related cases by the officers of the court.</p> <ul style="list-style-type: none"> This analysis should be reflected in the annual reporting completed by the courts along with any relevant service improvements identified through the analysis. Analysis to include inputs from ministries/offices such as police, social welfare, MWYSA, etc. | <ul style="list-style-type: none"> Chief Registrar | <ul style="list-style-type: none"> SPC RRRRT | 1–2 years and then ongoing | Annual analysis of the application of the procedures by the officers of the court to assess the quality of DV case management. | 30,000 |
| CD11 | Record all DV cases, including key decisions made | Strengthening of court records system to capture the management of all DV cases, including key decision made (i.e. type of protection orders sought, outcome of the application for a protection order and reasons for the decision made mindful of due diligence and court's discretion. | <ul style="list-style-type: none"> Chief Registrar Statistics Unit, MOF | <ul style="list-style-type: none"> AFC PIDP | 1–2 years | A records system is updated or developed and quality information is recorded on a regular basis. | 3,000 |
| CD12 | Related linkage: Development of a separate Family Court to deal with family law and DV-related matters as noted in the National Policy and Strategic Action Plan, Key Strategic Area 2 | As per the National Strategic Action Plan, Key Strategic Area 2. | <ul style="list-style-type: none"> Chief Registrar Chief Justice AG's office Kiribati Government | | As per the National Strategic Action Plan, Key Strategic Area 2. | As per the National Strategic Action Plan, Key Strategic Area 2. Family Court developed and functional. | |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|------------------------------------|---|---|--|--|--|--|----------------|
| HEALTH AND SUPPORT SERVICES | | | | | | | |
| CD13 | <p>Training for health workers, including doctors, nurses and orderlies on the Te Rau n Te Mwenga Act and DV</p> <ul style="list-style-type: none"> Training for health workers on the revised SOP of ESGBV. Training for nurses on management and care of GBV victims, including counselling and providing standard report to court. | <p>Development of, or updating of existing, training for all health workers on Te Rau n Te Mwenga Act, DV, evidence collection SBGV, human rights, gender inequality and related issues.</p> <p>Training on revised SOP for ESGBV.</p> <p>Availability of qualified trainers.</p> | <ul style="list-style-type: none"> MHMS Director for Nursing Director Public Health | <ul style="list-style-type: none"> UNFPA SPC RRRRT UN Women | <ul style="list-style-type: none"> All doctors and senior nurses within 6 months. All remaining nurses and other health services staff within 18 months. | <p>Doctors and nurses who attend the first round of trainings (within 6 months) to develop a communication strategy for informing the rest of the health service staff on the materials in the training.</p> | |
| CD14 | <p>Health workers (including those in outer islands) are able to properly document and record all cases of DV reported to the hospitals or health centres</p> | <p>Detailed hospital records and victim impact statements are being collected and recorded.</p> <p>Effective and efficient processes are in place for the collection, recording and security of DV data.</p> <p>Establish and implement effective referral pathways into and out of other health services that may be relevant to victims of GBV, including RH services and mental health services.</p> | <ul style="list-style-type: none"> MHMS MWYSA | <ul style="list-style-type: none"> UNFPA SPC RRRRT | 1–2 years | <p>Quality information is consistently recorded by health sector workers.</p> | |
| CD15 | <p>Integration of the Te Rau n Te Mwenga Act and DV trainings and principles in the rollout of the Implementation and Costing Plan for the Children, Young People and Families Welfare System (ICP-CYPFWS)</p> | <p>Integration of the FBV, DV, SGBV, human rights, gender inequality and other related issues in the rollout of trainings, programmes and initiatives under the ICP-CYPFWS to streamline resources and avoid duplication.</p> | <ul style="list-style-type: none"> Director of Social Welfare MWYSA | <ul style="list-style-type: none"> UNICEF SPC RRRRT | As per the timeframe in the ICP-CYPFWS. | <p>Joint training and programmes, projects are rolled out and resources are shared where there is a similarity or overlap between the noted document and this logframe.</p> | |

| Number | Activity | Output | Core Responsibility | Other Technical Assistance | Timeframe | M & E | (Costs in AUD) |
|---|---|--|---|--|---|---|----------------|
| CD16 | Integration of the Te Rau n Te Mwenga Act and DV in the SHIP activities for the Education Department and Teachers | Integration of the Te Rau n Te Mwenga Act and DV in the rollout of trainings, programmes and initiatives under the SHIP to streamline resources and avoid duplication. | <ul style="list-style-type: none"> MoE MWYSA | <ul style="list-style-type: none"> UNICEF UN Women SPC RRRRT | As per the SHIP timeframe. | Joint training and programmes, projects are rolled out resources are shared where there is a similarity or overlap between the noted document and this logframe. | |
| REPORTING, MONITORING AND EVALUATION | | | | | | | |
| RM1 | <p>M&E system is designed, developed and adopted for the purposes of tracking statistics of DV cases received and for the purposes of reporting per Section 44 of the Act</p> <p>M&E Framework is able to capture and document the following activities under the Te Rau n Te Mwenga Act.</p> | <p>Desegregation of data by sex, age, location etc. for all DV cases received by:</p> <ul style="list-style-type: none"> police health services judiciary counselling services <p>Proper tracking of all SOPs developed for DV and SGBV.</p> <p>Proper tracking of all regulations or guidelines.</p> <p>Rules made by the Chief Justice under Section 45 of the Act.</p> | <ul style="list-style-type: none"> MWYSA coordinates and works with the Statistics Division to appropriate the relevant statistics | <ul style="list-style-type: none"> UNW SGBV Taskforce SPC RRRRT | Annual Reporting per Section 44 of the Act. | <ul style="list-style-type: none"> Surveys pursued to seek clarification on data. Indicators finalised. Data desegregated and published. Number of SOPs addressing SGBV enforced. Number of regulations or guidelines enforced. Number of rules enforced. | |
| RM2 | Reporting under Section 44 of the Te Rau n Te Mwenga Act <i>(Secretary MWYSA to Minister for MWYSA who reports to the Council established under Section 42 of the Act and to the Maneaba ni Maungatabu.)</i> | <p>The Secretary for MWYSA will compile annual statistics and an annual report with the following information:</p> <ul style="list-style-type: none"> The manner of victims applying to the courts for protection orders each year. The types of domestic violence incidences that come before the courts each year. An analysis of self-referrals and referrals made by the courts and other agencies to counselling services and shelters each year. The effectiveness of all measures adopted by government agencies to combat domestic violence. | <ul style="list-style-type: none"> Secretary MWYSA Statistics Division | <ul style="list-style-type: none"> Police Health Judiciary | Annually | <ul style="list-style-type: none"> Report prepared by Secretary containing relevant information per Section 44 (2 (a-e)) Report submitted to Advisory Council established under Section 42. Report submitted to the Maneaba ni Maungatabu. | |

ANNEX 2

REPUBLIC OF KIRIBATI

(No. of 2014)



I assent,

Arato Tang
Beretitenti

10 Dec, 2014

A Bill
entitled

A BILL FOR AN ACT TO PROVIDE FOR THE PROTECTION OF VICTIMS OF DOMESTIC VIOLENCE, THE PREVENTION AND ELIMINATION OF THE CRIME OF VIOLENCE WITHIN DOMESTIC RELATIONSHIPS; AND FOR RELATED PURPOSES

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Part 1 – Preliminary

1. Short title

(1) This Act may be cited as Te Rau N Te Mwenga Act 2014.

2. Interpretation

In this Act, unless the context otherwise requires-

“access order” means an order issued pursuant to section 22 of this Act granting access to the respondent to any child or children within the domestic relationship where temporary custody of the children has been awarded by the court to the complainant or to some other person;

“applicant” means a person who applies for a protection order under this Act and includes a person on whose behalf an application is made;

“CEDAW” means the Convention on the Elimination of All Forms of Discrimination against Women;

“child” means a person under the age of 18 years;

“community worker” includes an island community worker;

“complainant” means a person who applies for or for whose benefit a protection order or other order under this Act is applied for;

“Court” means the Magistrates’ Court or High Court;

"counsellor" means a counsellor registered under section 7 of this Act;

"CRC" means the Convention on the Rights of the Child;

"custody order" means an order issued pursuant to section 22 of this Act granting temporary custody of any child or children to the applicant;

"domestic violence" has the meaning set out in section 4;

"domestic violence offence" means an offence as provided for in section 32;

"economic abuse" has the meaning set out in section 4

"emergency protection order" means an order in situations of urgency as provided for in section 16;

"final order" means a final protection order made under section 18 of this Act that deals with a substantive matter in issue in proceedings on a final basis;

"harassment" means engaging in a pattern of conduct that induces the fear of harm in a complainant including-

- (a) repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
- (b) repeatedly making unwarranted phone calls or inducing another to make such phone calls to the complainant, whether or not conversation ensues;
- (c) repeatedly sending, delivering or causing the delivery of unwanted letters, packages, other objects, facsimiles, text messages or other electronic mail to the complainant;

"health care provider" means a doctor, nurse or health worker engaged in any medical facility providing medical services to members of the public;

"intimidation" means any word or action that intentionally threatens the use of force or the threat of force, causing or threatening to cause physical injury to any person;

"respondent" means any person who is or has been in a domestic relationship with the complainant and who has committed or allegedly committed an act of violence against the complainant or against whom an order is sought or made under this Act;

"person at risk" means any person in a domestic relationship who is at risk, or has been subjected to domestic violence;

"police safety order" means an on-the-spot order issued by the Police and referred to in section 26;

"protection order" means an emergency, temporary or final protection order made under this Act;

"sexual assault" means sexual contact that involves the intentional touching or penetration by the perpetrator of the complainant's intimate parts; or, the touching by the complainant of the perpetrator's, the complainant's, or another's intimate parts effected by the person in a position of authority; or, by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired; or, the touching of the clothing covering the immediate area of the intimate parts; or, the intentional penetration or touching with seminal fluid or sperm by the perpetrator of the complainant's body or the clothing covering the complainant's body.

"sexual harassment" means an unwelcome sexual advance made in verbal, physical and/or other forms, intimidation, threat and/or other forms of coercion that makes sexual intercourse an unavoidable option for the victim or that creates an unbearable hostile environment and or causes damage in terms of the person's employment, professional, economic, psychological and or any other form of well-being.

"social welfare officer" includes the assistant welfare officer;

"stalking" means repeatedly following or pursuing the complainant in an unwanted and unwelcomed manner whether in person or by telephone calls, text messages or other electronic means;

"Te Rau N Te Mwenga" means Family Peace;

3. Objects of the Act

(1) The objects of this Act are-

- (a) to ensure the safety and protection of all persons including children, who experience or witness domestic violence;
- (b) to provide support and redress for all victims of domestic violence;
- (c) to implement programmes for victims of domestic violence to ensure their recovery to lead a safe and healthy life.
- (d) to facilitate enforcement of Court orders issued in order to stop acts of domestic violence;
- (e) to enact provisions that are consistent with certain principles underlying the Declaration on the Elimination of Violence against Women; and
- (f) to enact provisions that are consistent with the CEDAW and the CRC.

(2) In enacting this Act, the Maneaba ni Maungatabu recognises-

- (a) that domestic violence, in all its forms, is unacceptable behavior and is a crime;
- (b) that on the basis of statistics domestic violence is a crime almost always perpetrated by men against women and children;
- (c) that domestic violence occurs and impacts on all sectors of the community;
- (d) that domestic violence extends beyond physical, sexual, psychological and economic violence and may involve the exploitation of power imbalances and/or patterns of abuse over many years;
- (e) that domestic violence occurs in traditional and non-traditional settings;
- (f) the particularly vulnerable position of children who are exposed to domestic violence as victims or witnesses, and the impact that such exposure can have on their current and future psychological, physical and emotional well-being;
- (g) that domestic violence is best addressed through a coordinated legal and social response of assistance to victims and measures to prevent violence and, in certain case, may be the subject of appropriate intervention by the Court.

(3) A Court that, or any person who, exercises any power conferred by or under this Act in relation to domestic violence must be guided in the exercise of that power by the objects referred to in this section.

4. Meaning of domestic violence

(1) For the purposes of this Act, any act or omission or conduct of the respondent or any threats to the complainant or any person related to the complainant by the respondent in a domestic relationship shall constitute domestic violence if it-

- (a) harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical of the complainant or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse;
- (b) harass, harms, injures or endangers the complainant with a view to coercing the complainant or any other person related to the complainant to meet any lawful demand for any property; or
- (c) otherwise injures or causes harm, whether physical or mental, to the complainant by any conduct mentioned in paragraph (a) or in paragraph (b);
- (d) otherwise injures or causes harm, whether physical or mental to the complainant.

(2) For the purposes of this section-

- (a) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb or health or impair the health or development of the complainant and includes assault, criminal intimidation and criminal force;
- (b) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a person;
- (c) "verbal, emotional and psychological abuse" means a pattern of degrading or humiliating conduct towards the complainant, including –
 - (i) repeated insults, ridicule or name calling, manipulating, making the victim feel guilty, ashamed and responsible for what he or she is experiencing;
 - (ii) repeated threats to cause physical and emotional pain; or
 - (iii) the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the victim's privacy, liberty, integrity or security;
- (d) "economic abuse" includes-
 - (i) deprivation of all or any economic or financial resources to which the complainant is entitled under any law or custom whether payable under an order of a court or otherwise or which the complainant requires out of necessity including, but not limited to, household necessities for the complainant and dependent children, if any, property, jointly or separately owned by the complainant, payment of rent related to the shared household and maintenance;
 - (ii) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the complainant has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the complainant or her children or any other property jointly or separately held by the complainant;
 - (iii) prohibition to, or restriction on, continued access to resources or facilities which the complainant is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.
 - (iv) damaging or destroying personal property in which the complainant has an interest.

(3) Without limiting subsection (2), -

- (a) a single act may amount to violence for the purposes of that subsection;
- (b) a number of acts that form part of a pattern of behaviour may amount to violence for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

5. Meaning of domestic relationship

Domestic relationship means a relationship between the complainant and the respondent in any of the following ways-

- (a) they are or were married to each other, whether in accordance to law, custom or religion;
- (b) they live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other;
- (c) they are the parents of a child or are persons who have or had parental responsibility for that child;
- (d) they are family members related by legal or customary adoption;
- (e) they are or were in an engagement, courtship or customary relationship, including an actual or perceived intimate or sexual relationship of any duration;
- (f) they share or recently shared the same residence; or
- (g) they are wholly or partially dependent upon ongoing care in the same household;

6. Conferral of jurisdiction

(1) A Magistrate's Court has jurisdiction-

- (a) to hear and decide on any application made to the court under this Act; and
- (b) to perform any other function or exercise any other power conferred on the court under this Act.

(2) Despite any other law or rule of court, a Magistrate's Court in any district may hear and decide a proceeding under this Act that has been started in a Magistrate's Court in any other district.

7. Registered counsellors

(1) The Minister shall from time to time call for applications from those wishing to be registered as counsellors for the purposes of this Act.

(2) The Minister may declare a person to be a registered counsellor only if he or she has appropriate qualifications or experience in counselling in relation to domestic violence.

(3) The Minister may declare a person to be a registered counsellor for up to five years.

(5) In making declaration, the Minister must-

- (a) consult with the Secretary of the Ministry responsible for women affairs, President of a recognised national council of women, and an organisation or task force established solely for the purpose of protecting women or protecting victims of domestic violence; and
- (b) ensure so far as practicable that there are registered counsellors in each local government region.

(6) A declaration must be in writing and a copy of it must be published in the Gazette as soon as practicable after it is made.

(7) The Minister must deregister a counsellor at any time in consultation with those named in subsection (5)
(a) where misconduct has been proved.

(8) A registered counsellor has the following functions –

- (a) counselling and advising on the problems in personal relationships that are likely or have led to the use of domestic violence;
- (b) carrying out, upon the directions of a Court, any counselling, assessment or investigation relating to the children and the family of the parties and providing reports accordingly;
- (c) facilitating arrangements for accommodation of the complainant and other persons at risk, as necessary;
- (d) facilitating immediate arrangements for medical or other examination of a child of the household; and
- (e) performing any other function which the Minister may assign for the purposes of this Act.

(9) Any counsellor may, in carrying out his duties, seek the assistance of any police officer.

8. Register

- (1) The Secretary of the Ministry responsible for women affairs must-
 - (a) establish a register of persons in respect of whom a declaration is made under section 8; and
 - (b) keep the register up to date.
- (2) The register is to be located at-
 - (a) the offices of the Ministry responsible for women affairs; and
 - (b) the office of each local government body including a copy of the register.
- (3) The register may be kept wholly or partly by computer.
- (4) Any person may inspect the register or a copy of it free of charge during normal office hours.

9. Act binds the Republic

This Act binds the Republic.

Part 2 – Protection Orders

10. Objects of this Part

The objects of this Part are-

- (a) to prevent violence between family members and others in a domestic relationship; and
- (b) to facilitate and maximise safety of and protection of persons who experience and fear domestic violence.

Division 1 - Application for a protection order

11. Who can apply?

- (1) An application for a protection order may be made by the Complainant to the Court nearest to where the complainant lives either temporarily or permanently, works or where the act of domestic violence occurred or is occurring.
- (2) In the case of a complainant who is unable to make an application personally-
 - (a) due to physical incapacity, fear of harm or for any other sufficient cause; or
 - (b) due to lack of capacity to understand the nature and to foresee the consequences of decisions in respect of matters relating to his or her personal welfare or lacks the capacity to make or communicate decisions in respect of such matters,

the following persons may apply to the court on behalf of such a person-

- (i). a family member, guardian or a friend; or
- (ii). a social welfare worker, counselor, community worker or women's interest worker; or
- (iii). a legal practitioner, or
- (iv). a healthcare provider; or
- (v). a head of a school; or
- (vi). a police officer.

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(3) Where a person is unable to give oral or written consent due to mental incapacity to the filing of an application for a protection order, any person making an application on behalf of such a person in such a situation shall act in the best interests of that person.

(4) No person who in good faith makes an application for a protection order or provides to the court any evidence or information in support of such an application, shall incur any civil or criminal liability in respect of the giving of such information.

(5) An application under subsection (1) may be made by or on behalf of more than one person.

(6) An application for a protection order may be made *ex parte*, unless the Court otherwise orders it to be on notice.

(7) A court must give priority to the hearing of applications for protection orders.

12. Form of application to a court for protection order

(1) An application to a court for a protection order may be made-

- (a) in person orally; or
- (b) in writing; or
- (c) by telephone, radio or similar facility; or
- (d) by facsimile, telex, text messaging or email.

(2) A written application must comply with Form 1 in the Schedule.

(3) If an application is made orally, the court clerk must reduce the application to writing on Form 1 in the Schedule.

(4) A written or oral application made by other persons on behalf of the complainant must comply with Form 2 in the Schedule.

(5) A court must keep a written register of-

- (a) all applications for protection orders made to it; and
- (b) all protection orders granted by it; and
- (c) all protection orders that have been declined and record the reasons for refusing to make a protection order;

13. Protection order in family or criminal proceedings

(1) A court where family or criminal proceedings are pending and considering the circumstances of the case, may on its own motion or on an application by the complainant, issue a protection order upon such terms and conditions as the court considers appropriate.

(2) In considering whether to grant a protection order, the court must take into account the safety, health and well-being of the complainant and the interests of any person dependent on the complainant.

Division 2 - Power of the court to make protection orders

14. Court may make protection order

- (1) The court may, on an application made under section 12 make a protection order if it is satisfied that-
 - (a) the respondent is using, or has used, domestic violence against the complainant, or a child or any other member of the family living in the same household; and
 - (b) the making of an order is necessary for the protection of the complainant, or a child or any other member of the family living in the same household.

- (2) In deciding whether to make a protection order, the court must take into account the following-
 - (a) the need to ensure that the complainant is protected from domestic violence;
 - (b) the well-being and the accommodation needs of the complainant, the complainant's children and any other family member living in the same household;
 - (c) the principles mentioned in section 3 of this Act; and
 - (d) any other matter that the court considers relevant.

- (3) In deciding whether to grant a protection order, the court must not take into account any custom that may put the applicant or child or any other member of the household at risk of domestic violence.

- (4) The court may include in the protection order the names of other family members, if the court is satisfied the respondent has committed or is likely to commit an act of domestic violence against other family members.

- (5) Without limiting subsection (1)(b), the court must consider whether the behaviour of the respondent forms part of a pattern of behaviour in respect of which the complainant, or child or other members of the family living in the same household, need protection.

- (6) Without limiting the matters that the court may consider when determining whether to grant a protection order, the court must have regard to-
 - (a) the opinion of the applicant or complainant, or a child of the complainant's family, or a member of the family living in the same household, of the nature and seriousness of the behaviour in respect of which the application is made; and
 - (b) the effect of that behaviour on the applicant, or a child or a member of the family living in the same household.

- (7) In all cases when granting protection orders, the court is required to explain the orders and consequences of court orders to the parties.

15. Temporary protection order in relation to cross applications

- (1) This section applies if-
 - (a) an application for a protection order has been made and is before a court; and
 - (b) the person named in the original application as the respondent applies for a protection order and the complainant named in the original application is named in the cross application as the respondent; and
 - (c) the cross application is made orally, or is made in writing but not served on the complainant named in the original application at least 1 business day before the hearing of the original application.

(2) If the cross application is made in accordance with subsection (1)(c), the court must adjourn the hearing of the cross application and set a date by which the written cross application is to be served on the original complainant named in the original application unless that complainant consents to the court hearing the cross application before hearing the original application or together with the original application.

(3) The court may make a temporary protection order in relation to the cross application if-

- (a) the complainant named in the original application does not consent as mentioned in subsection (2);
- (b) at least one of the following persons is in danger of personal injury, or the property of at least one of the following persons is in danger of substantial damage-
 - (i) the person for whose benefit the protection order, based on the cross application, is sought;
 - (ii) another person who is sought to be protected by the domestic violence order based on the cross application.

Division 3 - Types of protection orders

16. Emergency protection order

(1) A court may make an emergency protection order where an *ex parte* application for a protection order is made orally or on Form 1 in the Schedule of this Act.

(2) In determining whether to grant an emergency protection order, the court shall consider and be satisfied that-

- (a) there are reasonable grounds for believing that if an emergency protection order is not made, the respondent may cause-
 - (i) physical, further verbal, emotional, psychological violence to the complainant or to a child or to any other member in the household; or
 - (ii) remove or cause damage to the property or cause death or injury to any animal of the complainant; or
 - (iii) the complainant will be prevented or deterred from pursuing the application if the order is not made immediately.

(3) An emergency protection order may contain any conditions set out in Division 4 of this Part of the Act.

(4) A copy of the emergency protection order must be immediately sent by the court to the Police in the area nearest where the complainant is currently residing, whether temporarily or permanently.

(5) An emergency protection order shall be effective for a period of no more than 28 days including the day the order is made.

(6) A court must determine an application for an emergency protection order on the same day on which the application is made unless there are exceptional circumstances.

17. Temporary Protection Order

(1) The court may grant a temporary protection order and include any conditions listed in Division 4 of this Part of the Act if it considers it to be in the best interests of the complainant.

- (2) In determining whether it is in the best interests of the complainant to issue a temporary protection order, the Court shall consider whether there is risk of harm to the complainant if the order is not made immediately.
- (3) If the court makes a temporary order under this Act, the court shall order immediate service on the respondent by the police of the temporary protection order together with-
- (a) the notice of the date of the hearing in accordance with Form 3 in the Schedule of this Act; and
 - (b) a notice to the respondent that clearly states that if the respondent does not take any steps in the proceedings, the temporary order will become final in accordance with section 18 by operation of law 90 days after the date on which it is made.
- (4) Where the respondent fails to appear before the court in accordance with subsection (3)(a) and the court being satisfied on the evidence that the respondent has been served, the court may-
- (a) give further directions; or
 - (b) order that the temporary order becomes final by operation of law 90 days after the date on which is made.
- (5) Where a temporary order becomes a final order pursuant to subsection (4)(b), the final order comes into effect immediately.
- (6) Temporary protection orders shall be effective for 90 days.
- (7) A temporary protection order may be made by the court on an *ex parte* basis.

18. Final Order

- (1) Where an application is made on notice to the court for a protection order and the court being satisfied on the evidence that notice has been served on the respondent in accordance with Form 3 in the Schedule of this Act, the court-
- (a) may give further directions; or
 - (b) make a final order and include any conditions set out in Division 4 of this Part of the Act as it considers appropriate on Form 4 in the Schedule of this Act.
- (2) A final protection order shall remain in force unless varied or cancelled by the court on an application by the respondent, if there is good cause.
- (3) In considering the application the court must take in account the best interests of the victim of domestic violence and dependent persons in the domestic relationship.

Division 4 - Conditions of a protection order

19. Standard conditions

- (1) Any protection order granted under this Act must include these conditions, namely that the respondent must not-
- (a) physically or sexually abuse the complainant;
 - (b) threaten to physically or sexually abuse the complainant;
 - (c) damage or threaten to damage property or cause death or injury to any animal of the complainant;
 - (d) engage, or threaten to engage, in other behaviour, including intimidation, harassment or stalking which amounts to psychological abuse of the complainant;
 - (e) deprive or threaten to deprive the complainant of economic or financial resources or dispose

or threaten to dispose of any movable or immovable property in which the complainant has a material interest.

- (f) encourage any person to engage in behaviour against a complainant where the behaviour; if engaged in by the respondent would be prohibited by the order;
- (g) prohibit the respondent or complainant from approaching each other while under the influence of alcohol, kava or non-prescription drugs.

(2) Without limiting subsection (1), it is a condition of every protection order that at any time other than when the complainant and the respondent are living in the same dwelling house, the respondent must not-

- (a) watch, loiter near, or prevent or hinder access to or from, the complainant's place of residence, business, employment, educational institution, or any other place that the complainant visits often; and
- (b) follow the complainant about or stop or accost the complainant in any place; and
- (c) where the complainant is present on any land or building, enters or remains on that land or building without the complainant's express consent; and
- (d) make any other contact with the complainant (whether by telephone, electronic message, correspondence or otherwise), except such contact-
 - (i) as is reasonably necessary in any emergency; or
 - (ii) as is permitted under any order or written agreement relating to the role of providing day-to-day care for, or contact with, or custody of or access to any children.

20. Conditions relating to property and accommodation

A court shall include any or all or any of the following conditions in a protection order-

- (a) prohibit the respondent from taking, damaging, destroying, burning, selling or giving away any property of the complainant;
- (b) direct the respondent-
 - (i) to return through a third party any specific personal property of the complainant; or
 - (ii) to allow the complainant to recover, have access to or make use of any specified personal property.
- (c) grant the complainant temporary occupancy to a residence or specified part of it whether or not the residence is solely owned or leased by the respondent.

21. Conditions relating to weapons

The court direct the respondent to surrender any weapon to the nearest police station or dispose of any weapon that has been used or threatened to be used to commit domestic violence.

22. Custody, access and maintenance orders

A protection order shall include, where appropriate, all or any of the following conditions-

- (a) a custody order granting temporary custody of any dependent child to the complainant or to another appropriate person if the court is satisfied that it is in the best interest of the child and for the safety and welfare of the child in question; or
- (b) an access order to the respondent under such terms and conditions as the court considers appropriate in the best interests of the child;
- (c) a maintenance order directing the respondent to pay maintenance in cash or kind or both to the complainant and any dependent children.

23. Urgent maintenance orders

- (1) Where the court makes a protection order, it must also make an order for urgent maintenance where it appears that the party is in need of immediate financial assistance, until further orders of the court.
- (2) The court may order payment of a weekly or monthly or other periodic amount as the court considers reasonable.

Division 5 - Variation and cancellation of protection order

24. Application by either party

- (1) A complainant or respondent may, upon written notice to the other party and the Court concerned on Form 3 in the Schedule apply for the variation or cancellation of a protection order.
- (2) If the court is satisfied that good cause has been shown for the variation or cancellation of the protection order and the application has been made freely and voluntarily, it may issue an order to this effect and set out the order on Form 5 in the Schedule of this Act.
- (3) The Registrar or clerk of the court as the case may be must forward the order and any variations made to the original protection order and set out the order according to Form 5 in the Schedule of this Act, to the complainant and respondent.

Part 3 – Prevention and Response

25. Public awareness, education, training, research

- (1) Ministries and Departments shall support and help ensure the introduction of public awareness programmes on prevention and the causes and consequences of violence in the family and in the community and based on available data.
- (2) Mechanisms for preventing, reducing the prevalence of violence and responding to help victims of violence shall include, but not be limited to-
 - (a) sensitisation and training in human rights, gender equality and causes and consequences of domestic violence for judicial officers, police officers, health care professionals, social welfare officers, other personnel in relevant Government agencies, youth groups, media personnel and civil society organizations;
 - (b) educating officials including and emphasizing human rights, gender equality and the problems of gender based violence in the education curricula in all levels of education;
 - (c) promoting and conducting educative campaigns on the National Action Plan on violence against women and on sexual and gender based violence;
 - (d) supporting and setting up facilities to support victims of gender and sexual based violence,
 - (e) Government officials promoting studies, research, data collection on the causes, consequences and frequency of domestic violence for regular evaluation and monitoring of trends and to form the basis of national and local preventive measures, national plans of action and strategy, policies and public awareness programmes to reduce, prevent and eliminate violence; and
 - (f) the Minister responsible for women affairs to present an annual report to the Maneaba in Maungatabu on measures taken under this section.

Part 4 - Police Powers and Duties

26. Duty of Police to act in relation to domestic violence

(1) If a police officer suspects on reasonable grounds that a person who is or has been in a domestic relationship with another person -

- (a) has committed or is about to commit a domestic violence offence; or
- (b) has breached a protection order.

the police officer may issue a Police Safety Order in Form 6 of the Schedule if the officer -

- (i) does not arrest that person for an offence against any enactment involving the use of violence; but
- (ii) has reasonable grounds to believe, having regard to the matters specified in sub section (2), that the issue of a Police Safety Order is necessary to ensure the safety of the victim in accordance with section 27.

(2) When considering whether to issue a police safety order under subsection (1), the police officer must have regard to the following matters:

- (a) whether there is a likelihood that the person will use , or again use domestic violence against the victim or any other person in the household;
- (b) the welfare of any children residing in the household with the victim; and
- (c) any other matter the police officer considers relevant.

(3) A police safety order comes into force immediately on being served on the person who commits domestic violence.

(4) An order continues in force for the period specified in the order, but that period must not exceed 14 days.

27. Police safety order

(1) A police safety order issued under section 26(1) must be served as soon as practicable on the person against whom the order is issued.

(2) An order may be issued without the consent of the person at risk for whose safety the order is proposed to be issued.

(3) A police officer who issues a Police Safety Order must explain to the person against whom the order is issued-

- (a) the purpose, duration and effect of the order; and
- (b) the consequences that may follow if the person against whom the order is issued contravenes the order.

(4) If an order issued under section 26(1) has not been served within 48 hours from the time of issue, the order lapses.

(5) A police safety order may be issued by a police constable or any police officer above the rank of constable.

28. Effect of police safety order

- (1) A person against whom an order is issued must-
 - (a) immediately surrender any weapons in his or her possession or control, used or about to be used to commit domestic violence; and
 - (b) vacate any land or building occupied by a person at risk, whether or not he or she has a legal or equitable interest in the land or building.
- (2) It is a condition of every order that the person against whom the order is issued must not-
 - (a) physically or sexually abuse or threaten to abuse a person at risk;
 - (b) remove, endanger or threaten to damage property or any animal belonging to a person at risk;
 - (c) harass, stalk, sexually harass, intimidate, follow or verbally abuse a person at risk; or
 - (d) make any contact with a person at risk.
- (3) In this section, a person at risk means-
 - (a) the person named in the order for whose safety the order is issued; and
 - (b) any child dependent upon the person at risk.

29. Contravention of Police Safety Order

- (1) Where a person who has been served with a Police Safety Order fails to comply with the Order or any condition of the Order, a police officer shall -
 - (a) take the person into custody; and
 - (b) apply to the Magistrate's Court on behalf of the person at risk for an emergency protection order under section 12.
- (2) A person taken into custody shall, subject to subsection (3), be brought before the Magistrate's Court within 24 hours.
- (3) If a person is taken into custody under subsection (1) and it is not practicable to bring the person arrested before a Magistrate within 24 hours after he or she has been taken into custody, a police officer of the rank of sergeant or above or the police officer in charge of the police station shall inquire into the case and, at or before the expiry of that period -
 - (a) grant or withhold bail; or
 - (b) release the person; and
 - (c) serve the person with a summons requiring him or her to appear before the Magistrate's Court at the place and time specified in the summons.
- (4) If the person who has been served with the summons under subsection (3)(c) does not attend personally at the place and time specified in the summons, the Magistrate's Court may issue a warrant to arrest him or her and bring him or her before the Court.

30. Duty to prosecute

- (1) Where there is a report of domestic violence and provided that there is sufficient evidence for doing so, every police officer handling the matter shall ensure and undertake to do all things necessary in order that a charge or information is laid with the court in order to commence prosecution of the matter in court.

(2) In addition to subsection (1), every police officer shall not endeavour to provide counselling to the parties to the proceedings to reconcile or to withdraw a charge or information laid under subsection (1).

(3) In every case prosecuted before the court, it is the duty of the police officer-

- (a) to provide information to the complainant about court processes and procedures in a language that he or she understands, the remedies available under this Act and the right to hire or have access to a court appointed lawyer and lodge an appeal; and
- (b) where necessary, make arrangements for the complainant and the complainant's dependents to find a suitable shelter, to obtain a medical treatment or counselling service where needed.

(4) The failure of a police officer to comply with an obligation imposed under this Act shall constitute misconduct for the purposes of section 41 of the [Police Service Act 2008](#).

31. Annual reports to be tabled in the Maneaba ni Maungatabu

(1) The Police Commissioner must, at least once a year, compile annual statistics and an annual report from the information collected under this section and forward the statistics and annual report to the Minister responsible for women affairs.

(2) The annual statistics and annual report referred to in subsection (1) shall contain the following details-

- (a) number of domestic violence reports filed;
- (b) number of complaints filed by men;
- (c) number of complaints filed by women;
- (d) number of reported cases concluded after investigations;
- (e) total time spent on investigations;
- (f) the manner in which the police responded to solve the issue when the report was filed and time taken in general;
- (g) action taken by the police to resolve a matter and referrals made to other services; and
- (h) the outcome of the domestic violence offences.

(3) On receipt of the statistics and annual report to in subsection (2), the Minister responsible for Women Affairs must prepare a consolidated report which the Minister must, at least once in every year submit to relevant authorities, the advisory council for women established under section 41 of this Act and table it in the Maneaba ni Maungatabu.

(4) Any information obtained under subsection (3) which may reveal the identity of the parties must not be disclosed in the consolidated report.

Part 5 - Role of Health Care Professionals and Social Service Provider

32. Duty of care and response to reports of domestic violence

(1) A duty of care is hereby established on any healthcare professional and social service provider who has been or is notified by a complainant that they have been a victim of domestic violence to -

- (a) advise the complainant about counselling;
- (b) refer the complainant to counselling as appropriate;
- (c) advise the complainant about filing a complaint with the police

- (2) In the event the police officer receive a report under subsection (1)(iii), the police officer shall-
- (a) instigate the processes required to investigate the incidence and take action; and
 - (b) ensure that the complainant is duly informed about the outcome of the investigations and the complainant of their rights and the remedies available under this Act.
- (3) The health care professional must examine the complainant and applying the protocol established by the Ministry of Health providing for professional standards and confidential treatment and further advise the victim of support options available and refer the victim to counselling support where available.
- (4) Any social service provider who has been notified by a complainant that he or she has been or are a victim of domestic violence must-
- (a) advise the victim of the support options available;
 - (b) refer the victim to counselling;
 - (c) refer the victim for medical treatment;
 - (d) advise the victim about filing a complaint with the police;
 - (e) advise the victim of their rights and the remedies available under this Act; and
 - (f) assist the victim and any dependent children where necessary by taking them to a shelter, where available and /or a house of a relative or friend and shall further liaise with the Police in ensuring that protection orders are applied for, are obtained and enforced.
- (5) Any health care professional or social service provider shall not give to any other person, whether directly or indirectly, any information acquired by reason of performing duty of a health care professional or social service provider under this Act.

Part 6 – Offences and Penalties

33. Domestic violence offence and breach of protection order

- (1) A person who-
- (a) engages in any conduct set out in section 4;
 - (b) breaches a protection order;
 - (c) fails to comply with a Police Safety Order;
- commits a domestic violence offence.
- (2) A person who commits a domestic violence offence referred to in subsection (1) shall be punished by up to a maximum term of 6 months imprisonment or a fine of up to \$250.
- (3) A person who commits a domestic violence referred to in subsection (1) for a second time shall be punished by up to a maximum term of 12 months imprisonment or a fine of up to \$500 or both.
- (4) A person who commits a domestic violence offence referred to in subsection (1) for a third time or more shall be punished by up to a maximum term of 3 years imprisonment with a fine of up to \$1000 or both.
- (5) It is not a defence to a domestic violence offence under subsection (1) that the respondent has paid compensation or reparation to the complainant or to the complainant's family.

(6) If a person instigates, counsels or procures another person to commit an act of domestic violence that person is taken to have committed the act and subsection (1) applies.

34. Relationship of Penal Code and relevant written laws to this Act

(1) Subject to section 10(5) of the Constitution, in addition to prosecution under section 30 of this Act, a respondent may also be prosecuted under any other criminal laws for the time being in force for the perpetrator's acts of domestic violence if the facts disclose the commission of a criminal offence under those provisions.

(2) In relation to domestic violence, the following circumstances shall be considered as aggravated circumstances, resulting in enhanced penalties for the offender, where-

- (a) domestic violence is committed against a child; or the action of domestic violence is performed in the presence of a minor;
- (b) domestic violence is committed against a person with special needs, a pregnant woman or a woman who, due to whatever reason, is incapable of resisting;
- (c) the violence is severe or life threatening;
- (d) a weapon is used; or
- (e) the respondent has committed repeated incidences of domestic violence.

Part 7 – Procedures

35. Procedures generally

(1) Proceedings under this Act are governed by the procedures, rules and regulations made under this Act and any other applicable criminal law.

(2) In cases of difficulty or doubt, a Court exercising jurisdiction in the proceedings may give directions about the procedures.

36. Service

(1) Where an application is being made to the Court for a protection order, the Court must issue as soon as practicable after filing-

- (a) a summon directing the respondent to appear at the time and place set out in the summons on Form 3 in the Schedule; or
- (b) a warrant in accordance with subsection (2) for the arrest of the respondent.

(2) The Court may issue a warrant if the Court is satisfied that the personal safety of the complainant would be seriously threatened unless the respondent is apprehended and brought into custody.

(3) The Court must give two copies of the application and any summons or warrants to the police officer in charge of the police station nearest to where the respondent lives or was last known to live.

(4) The police officer must personally serve the application and summons or warrant on the respondent.

(5) Where service is completed by the police officer, an affidavit of service must be completed by the police officer who served the respondent and the affidavit must be promptly delivered posted or transmitted by

facsimile transmission or emailed to the court registry in which the application was filed for the hearing of the matter.

(6) In the case of a warrant, the police officer must arrest the respondent and take the respondent into custody.

37. Withdrawal of complaint

Where a complainant makes an oral or written application for withdrawal of a complaint against the respondent, the Court-

- (a) must investigate the reasons for withdrawal;
- (b) must ensure the safety and well-being of the complainant and any dependants;
- (c) may make further directions; or
- (d) grant the application.

38. Rights of complainant in domestic violence proceedings

In proceedings for domestic violence, the prosecutor or any other person acting for the complainant, must consult with the complainant and fully explain proceedings in order to ensure that all relevant information is provided to the complainant and that the complainant fully understands the court proceedings and orders made, in order to lessen the impact of the court hearing on the complaint, any dependent children and persons living in the same household.

Part 8 - Appeals

39. Appeals

(1) An appeal may be made to the High Court against a decision of a court-

- (a) to make a protection order; or
- (b) to revoke or vary a protection order (including a variation of the conditions imposed by the order); or
- (c) to refuse to make, vary or revoke a protection order.

(2) An appeal-

- (a) may be made by the complainant or the respondent; and
- (b) must be instituted within 28 days after the day on which the court's decision is made.

40. Institution and nature of appeal

(1) An appeal must be instituted by-

- (a) lodging a notice of appeal in writing with the Registrar of the High Court; and
- (b) serving a copy of the notice of appeal on each person who is a party to the proceedings (other than the appellant); and
- (c) giving a copy of the notice of appeal to the Commissioner of Police or his or her representative.

(2) A notice of appeal must specify the grounds of appeal and the facts that are relied upon.

(3) Unless a judge of the High Court orders otherwise, an appeal is to be by way of re-hearing and must be in accordance with the rules of the Court.

(4) An appeal against an order does not stay the operation of that order.

41. Decision on appeal

(1) If the High Court allows an appeal-

- (a) it may confirm, dismiss or vary any order to which the appeal relates, as it considers appropriate; and
- (b) it may make such order or decision as it considers should have been made, and every such order or decision takes effect on and from the day on which it is made.

(2) A person aggrieved by an order or decision of the High Court may appeal to the Court of Appeal against that order or decision.

(3) Neither the High Court nor the Court of Appeal is bound by the rules of evidence in determining an appeal.

Part 9 – Advisory Council

42. Establishment, membership and functions

(1) The Minister responsible for the Ministry responsible for women affairs may establish an Advisory Council consisting of persons appointed by the Minister in accordance with subsection (2).

(2) The Council consists of such representatives of relevant government agencies, organisations or councils for protecting women, and other civil society groups as the Minister thinks fit.

(3) It is the function of the Council to advise and make recommendations to the Minister, either of its own motion or upon request made to it by the Minister, concerning-

- (a) the workings of this Act and other legislation relating to family law;
- (b) the working of legal aid in relation to this Act;
- (c) research, monitoring and evaluation of the impact of domestic violence in the community;
- (d) the adequacy of preventive measures, responses, shelters and counselling support services provided to victims of domestic violence; and
- (e) any other matter relating to domestic violence and violence against women and children.

(4) The Minister must appoint one of its members to be Chairperson of the Council.

(5) A member of Council holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(6) A member may resign by writing to the Minister.

(7) The Minister may terminate the appointment of a member because of misbehaviour, or physical or mental incapacity of the member.

(8) Meetings of the Council must be convened by the Chairperson.

(9) The Council must keep record of its meetings.

(10) The Council must, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report of the operations of the Council during the year that ended on 31 December the previous year.

(11) The Minister must cause a copy of a report furnished under subsection (10) to be laid before the Maneabani Maungatabu after the receipt of the report by the Minister.

(12) The Minister may determine the procedures for the meeting of the Advisory Council, the rate of the attendance allowance for the members of the council, and such other matters as are required to give effect to this section.

Part 10 - Miscellaneous

43. Proceedings not open to public

(1) A court hearing an application for a protection order is not open to the public.

(2) Subject to subsection (3), a person may not be present during the hearing of an application unless he or she is-

- (a) a party to the proceedings;
- (b) an officer of the court;
- (c) a legal or other representative of the party;
- (d) a witness; or
- (e) any other particular person whom the Court permits to be present.

(3) A complainant is entitled to have a person with him or her throughout the proceedings to provide support and other assistance.

44. Central data collection, monitoring, reporting etc

(1) The Secretary for the Ministry responsible for women affairs must at least once a year, compile annual statistics and an annual report for the information collected under this section and forward the statistics and report to the Minister responsible for women affairs.

(2) The annual statistics and annual report referred to in subsection (1) shall contain the following details-

- (a) the manner of victims applying to the courts for protection orders each year;
- (b) the types of domestic violence incidences that come before the courts each year;
- (c) an analysis of sentences imposed by the court in domestic violence cases each year;
- (d) the number of self referrals and referrals made by the courts and other agencies to counselling services and shelters each year; and
- (e) the effectiveness of all measures adopted by Government agencies to combat domestic violence.

(3) On receipt of the statistics and annual report referred to in subsection (2), the Minister responsible for women affairs must prepare a consolidated report which the Minister must, at least once in every year, submit to relevant authorities, the Council established under section 42 of this Act and table in the Maneabani Maungatabu, but any information which might reveal the identity of the parties must not be disclosed in the consolidated report.

45. Power to make rules

The Chief Justice may from time to time make rules providing for and in relation to-

- (a) forms and the use of forms as necessary for the purposes of this Act;
- (b) applications for protection orders made by telephone and other similar facilities;
- (c) partial and full remission of fees;
- (d) data collection on the outcomes of domestic violence cases and orders of protection, including any violations; and
- (e) on any other relevant matter.

46. Power to make regulations

The Minister may make regulations not inconsistent with this Act for all matters required or necessary to give effect to this Act.

SCHEDULE

FORMS

- Form 1 Application for protection order
- Form 2 Application for protection order by persons on behalf of complainant
- Form 3 Notice of Proceedings and Summons
- Form 4 Protection Order
- Form 5 Order varying, cancelling protection order
- Form 6 Police Safety Order

(Sections, 16, 17)

FORM 1

Te Rau N Te Mwenga Act 2013

APPLICATION FOR EMERGENCY OR TEMPORARY, PROTECTION ORDER

(Delete whichever inapplicable)

[If respondent does not take steps in the proceedings for temporary protection order, the order becomes final]

Between _____ **of** _____ **Complainant**
A.B.
and _____ **of** _____ **Respondent**
C.D.

I of being in a domestic relationship with the Respondent as the Respondent's (state relationship) hereby apply for a protection order against the Respondent on the grounds that:
(State grounds here)

.....
Complainant

Filed on this day of 20....

Signature
Court Clerk at _____

(Section 16, 17)

FORM 2

Te Rau Te Mwenga Act

Hearing

Date:

Time:

**APPLICATION FOR EMERGENCY, TEMPORARY PROTECTION
ORDER BY PERSONS ON BEHALF OF THE COMPLAINANT**

(delete whichever inapplicable)

*[If the respondent does not take steps in the proceedings
for temporary protection order, the order becomes final]*

Between

Applicant

A.B. of

and

Respondent

C.D. of

1. I of applying on behalf and with the consent of
..... (complainant) of (address) who is in a domestic relationship
..... with (name of Respondent) of (address) as the Respondent's (state
relationship)

2. Hereby apply for a protection order against the Respondent on the grounds that:

3. *(State grounds here)*

.....

Signature of Applicant (applying on behalf of Complainant)

.....

Signature of Complainant

Filed on this day of 20....

Signature

Court Clerk at _____

FORM 3

Te Rau N Te Mwenga Act

NOTICE OF PROCEEDINGS AND SUMMONS

Between
A.B. of
and

No. of 20
Complainant
Respondent

C.D. of

To the Respondent (Name).... at (address)

1. An application under section (include relevant section) for a protection order, or under section for a variation, or cancellation of protection order (delete where inapplicable) has been made against you by of (address)

2. A copy of the application is attached. The application has been set down for hearing on 20..... at (place) at hours.

3. You are hereby summoned to appear at the Court at on the day of 20..... at the (time) to answer the complainant / applicant.

If you do not attend at the hearing of the complaint/ application, the Court may –

(a) deal with the complaint/ application in your absence; or

(b) issue a warrant for your arrest to be brought before the Court.

Dated 20....

.....
Court Clerk at _____

(Note: Copy of Application attached)

FORM 4

Te Rau N Te Mwenga Act

PROTECTION ORDER

Between
A.B. of
and

No. of 20
Complainant
Respondent

C.D. of

The Court at having heard the complaint /application (*delete whichever inapplicable*) made by [*name of complainant*] of under section of the Kiribati Te Rau N Te Mwenga Act in respect of the conduct [*or threatened conduct*] of [*name of respondent*] towards [*name of person(s) to be protected*]:

Now the Court on this day orders that, for [*period*] [*name of respondent*] not to engage in the following conduct:

.....
.....
.....

And to comply with the following orders:

.....
.....
.....

Dated 20....

.....
(Judge/Magistrate)

FORM 5

Te Rau N Te Mwenga Act 2014
(Section 25)

ORDER VARYING OR CANCELLING PROTECTION ORDER

Between
A.B. of
and

No. of 20
Complainant
Respondent

C.D. of

1. The Court at having heard the application made by [name] of [address] under [section] of the Kiribati Te Rau N Te Mwenga Act and on [date of original order], issued the following orders against the respondent as specified on the attached order [attach copy of original order].

2. Now the Court on the application of (name) of..... (address) and having heard the [complainant or respondent] this day of 20.....orders that the Protection Order be (Varied/ Cancelled)(delete where inapplicable) as follows:¹

3. [specify, details of variation/ cancellation here]

Dated 20....

.....
(Judge/Magistrate)

1

FORM 6 - POLICE SAFETY ORDER

(Section 26(1))

To *[full name, address, date of birth of person against whom the Police Safety Order is issued]*.

This Police Safety Order is issued against you.

1. Purpose of Order

The purpose of this order is to ensure the protection of a person or child with whom you are, or have been, in a domestic relationship.

2. This order protects the following persons -

[Full name of person to be protected and full name of each child residing with the person named above]

.....
.....
.....
.....

3. Commencement of order

The order comes into force immediately after a copy is served on you.

4. Duration of order

This order continues in force for *[number]* days.* It expires on *[date and time]*.*

*Select one.

5. Effect of order

You must immediately -

(a) surrender to a police officer any weapon in your possession or control used to threaten or commit domestic violence;

(b) temporarily vacate for the duration of the order any land or building occupied by the protected person and children whether or not you have a legal or equitable interest in the land or building.

1. Conditions of order

It is a condition of this order that you must not —

(a) threaten to or physically or sexually abuse the protected person or children;

(b) damage, or threaten to damage any property of the protected persons;

(c) intimidate, harass or psychology abuse the protected persons or engage any person to engage in such behaviour against the protected persons;

(d) watch, loiter near, prevent or hinder access of protected persons to and from the place of residence, business, employment or educational institution;

(e) stop or accost a person protected by this order;

(f) make any other contact with protected persons except such contact as is reasonably necessary in any emergency.

1. Consequences of breach of order

If you refuse or fail to comply with this order or any condition of this order, you may be taken into custody and brought before a Magistrate's Court.

An application may then be made to bring you before a Magistrate's Court.

A Magistrate's Court may -

(a) direct that another Police Safety Order be issued against you or

(b) issue under section 17 a temporary protection order against you.

Date:

Issued by:

[Print full name and sign]

EXPLANATORY MEMORANDUM

Background

Te Rau N te Mwenga Bill introduces a new framework law to protect victims of violence in domestic relationships. It provides for an offence of domestic violence and introduces protection orders and police safety orders. It also introduces preventive measures such as education and public awareness programmes to reduce, prevent and eliminate violence. It establishes a Council to monitor the implementation of this Act and make provisions for funding support for victims of violence such as shelters, training, preventative and public awareness programmes.

Preliminary

Section 1 is a short title section.

Section 2 deals with interpretation and it defines terms used in the Bill.

Objectives of the Bill is shown in Section 3 however the main objects are to maximise the safety of victims of violence and dependent children

Domestic Violence definition

Section 4 defines "domestic violence" – it is expanded to include physical abuse, sexual abuse, psychological and verbal abuse, damage to property and including threats of abuse.

Implementation Plan for the Te Rau N Te Mwenga (Family Peace) Act 2014

Section 5 sets out the domestic relationship for the purpose of this Act – it is expanded to include not only a spouse but former spouse, partner (de facto relationships) and those who have or had a close personal relationship (boyfriend/girlfriend).

Jurisdiction and Counsellors

Section 6 deals with conferral of Jurisdiction, the Magistrate Courts has the jurisdiction and also is allowed to hear and decide a proceeding that has been started in a Magistrate court in any other district.

Section 7 and 8 deals with registration of counsellors – Working with victims of domestic violence and families who are affected by violence would require counselling intervention. The reasons for registration ensure accountability and prevention of unethical practice when working with the most vulnerable and dis-empowered.

Application for a Protection Order

Section 11 deals with who can apply for protection orders – it expands the range of persons, apart from the complainant, who can apply for a protection order on behalf of the complainant who is unable to apply due to injury or fear. Where a person is unable to give consent and evidence suggests that protection is needed, application may be made on behalf of such persons if it is in that person's best interest.

Form of Application for protection order

Section 12 sets out the form for protection order – it can be made orally or in writing, by telephone, radio or by fax, telex, text message or email. However it must be reduced to writing using Form 1 in the Schedule. If made by other person on behalf of the complainant, Form 2 in the Schedule is used.

Section 13 allows the court to issue a protection order in family or criminal proceedings, after considering the safety, health and well-being of the complainant and the interest of any person dependent on the complainant.

Powers to make protection order

Section 14 gives the court power to make protection orders upon being satisfied that the respondent is using or has used domestic violence and it is necessary for the protection of the applicant, or a child or any other member of the family living in the same household

The Court must take into account the following

- the protection, well-being, accommodation of the applicant and child etc;
- the principals of the act (Section 3).

The court must also have regard to the opinion of the applicant, or members of the applicant's family of the nature and seriousness of the behaviour to which the application is made and its effects on the child

Cross application for protection orders

Section 15 – Protection orders is sometimes used as method of continuing the victimisation of the complainant and Section 15 sets out the procedure for cross application and confirms the principal that victims of domestic violence are protected.

Types of Protection Orders

There are three types of protection orders-

Section 16– Emergency protection order –this application may be used in times of crisis by the victim for immediate protection from domestic violence. The order is limited to 28 days which will enable a victim to seek counselling or make arrangements that could be life changing. Victims need a period of time to consider the options available to them. If there is no further application to the Court, this order lapses at the end of 28 days.

Section 17 – Temporary Protection Order is valid for 90 days and if the respondent does not take any action, the order becomes final at the end of 90 days.

Section 18–A Final order has an indefinite time-frame and may be varied or cancelled under Section 24.

Standard Conditions

Section 19– provides for standard conditions in protection orders. The conditions range from prohibiting the perpetrator from physically assaulting, forcibly confining or depriving the victim of adequate food, water, clothing, shelter or rest. It also prohibits the perpetrator from engaging in sexual conduct which violates the victim's sexual integrity and autonomy. It also prohibits the perpetrator from depriving the victim of financial resources, medical or personal necessities required for the victim's health and well-being. Conditions of the protection orders could also include the prevention of harassment and stalking, entering the victim's residence without consent and preventing the psychological or verbal abuse of the victim.

Sections 20– provides for conditions relating to property and accommodation. Under this Section, the Court may grant the victim temporary occupancy to the residence or to a specified part of it. This provision makes it clear that the victim and children are not to be ousted from the residence, even if an application is made by the defendant to remove them. This provision is designed to minimise the disruptions and upheavals caused to the lives of victims and dependent children.

Section 21 – provides for conditions relating to weapons and directs the defendant to surrender any weapon that has been used to commit domestic violence.

Section 22 – provides for custody, access and maintenance orders. With respect to **custody** -in the event the applicant is not able to care for a dependent child/children due to illness, injury or for any other factor, the Court may order custody of the child/children to another appropriate person who will ensure their safety and well-being of those children.

Section 23 – provides for **urgent maintenance orders**. Lack of financial support for basic needs will further jeopardise the health and well-being of victims. The Courts have broad powers to safeguard victims from further injury and violence.

Variation and Cancellation of Protection Order

Section 24 deals with variation and cancellation of protection orders – either parties can apply for it upon satisfaction of the Court that good cause has been shown and it was made freely and voluntarily.

Prevention and Response

Section 25 calls for coordination amongst government agencies with support from civil society groups, to establish and introduce sensitisation and public awareness programmes, human rights and gender training to eliminate domestic and family violence. Emphasis on human rights and gender equality in education curricula at all levels; and the promotion of studies, research and the collection of data on the causes, consequences and frequency of domestic violence. Comprehensive preventive measures and clear effective strategies have the potential to reduce and eliminate violence within domestic relationships and in the community.

Police powers and Duties

Sections 26 to 29 The Section introduces Police safety orders. As police officers are located on all islands, these Police Safety Orders are a quick intervention strategy to stop the violence. The 14 day duration of a police safety order can assist parties to cool down, seek counselling and advice and give them time to reflect on issues surrounding their lives.

Section 30 imposes a duty on the prosecutor to provide information to the victim to lessen the impact of the trial and prohibits the counselling of the victim to reconcile or to withdraw the case.

Section 31 requires the Minister to provide an annual report on activities undertaken on domestic violence to the Maneaba ni Maungatabu. Reporting on actions taken will keep this problem in the public view and measures to reduce and eliminate the violence can be assessed and monitored.

Role of the Healthcare Professionals and Social Provider

Section 32 imposes a duty of care for healthcare professionals and social service providers. Professional conduct, confidentiality and a non threatening environment are central principles that define the relationship between human service providers and victims of violence.

Offences and Penalties

Section 33 creates a domestic violence offence and an offence for the breach of a protection order. The penalties are increased for offences that are aggravated in nature (Section 34(2)). The penalties are increased for repeat offenders to show that domestic violence is not tolerated in Kiribati.

Under Section 34, a perpetrator may also be prosecuted under other criminal laws if the perpetrator's act of violence discloses a criminal offence under those other provisions, provided that it does not constitute double jeopardy (Section 10(5) of the Constitution of Kiribati).

Procedures and Appeals

Section 37 deals with the withdrawal of complaint. Withdrawal of complaints may arise from a number of reasons including the lack of financial support should the perpetrator be incarcerated, the further deterioration of the relationship between the parties and the family members, or duress from other family members or the perpetrator to withdraw the complaint or fear of further violence. Where an application for withdrawal comes before the Court, the Court is required to investigate the reasons for withdrawal, to ensure that the safety of the victim and any dependent children are considered.

Sections 39 – 41 provides for Appeal procedure and allows for the decision by the Magistrate court under this act to be appeal-able to the High Court.

Advisory Council and Domestic Violence fund

A Council is established to provide oversight of the implementation of this Act. It also promotes inter-agency cooperation of eradicating domestic violence. The functions of the Council in Section 43(3) involves the making of recommendations on the implementation of the Bill; the research and monitoring of the prevalence of violence in the community and the adequacy of services to victims of domestic violence. The monitoring of the implementation of this Act is a mandatory function to ensure information is gathered to assess compliance.

Miscellaneous

This Part provides for Court proceedings be closed to the public (c. 45); gives the Chief Justice power to make rules for court proceedings under this act (c. 46) and the Ministry powers to regulations (c.47) and it also provides for data collection, monitoring and reporting (c. 44).

**Titabu Tabane
Attorney General
December 2013**

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the *Te Rau n te Mwenga* 2014 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 28th April 2014 and is found by me to be a true and correctly printed copy of the said Bill.

Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this 10 day of December, 2014

Eni Tekanene
Clerk of the Maneaba ni Maungatabu

