



Stocktake of the gender  
mainstreaming capacity of  
Pacific Island governments  
- Kiribati -



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*Secretariat of the Pacific Community*

## List of abbreviations

BPA	Beijing Platform for Action
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination against Women</i>
CRPD	<i>Convention on the Rights of Persons with Disabilities</i>
CRC	<i>Convention on the Rights of the Child</i>
CBD	<i>Convention on Biodiversity</i>
CSO	Civil society organisation
DVSO	Domestic Violence Support Office
ESGBV	eliminating sexual and gender-based violence
FAO	Food and Agriculture Organization (UN)
FWCC	Fiji Women's Crisis Centre
FWRM	Fiji Women's Rights Movement
HOD	Head of Division
KDP	Kiribati Development Plan
IFAD	International Fund for Agriculture Development
MDGs	Millennium Development Goals
MFEP	Ministry for Finance and Economic Planning
MISA	Ministry of Internal and Social Affairs
MWYSA	Ministry for Women, Youth and Social Affairs
NWM	National women's machinery
NGO	Non-governmental organisation
PIFS	Pacific Islands Forum Secretariat
PSC/PSO	Public Service Commission/Public Service Office
RRRT	Regional Rights Resource Team (SPC)
SIDS	Small island developing states
SPC	Secretariat of the Pacific Community
UNCEDAW	<i>United Nations Convention on the Elimination of All Forms of Discrimination Against Women</i>
UNESCO	United Nations Education, Scientific and Cultural Organization
UNDP	United Nations Development Programme
UNFCCC	<i>United Nations Framework Convention on Climate Change</i>
UN-Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal Periodic Report
WDD	Women's Development Division

## INTRODUCTION

It is now widely recognised that development and governance processes will not be effective or sustainable until women and men participate in and benefit from such processes on a basis of both formal and substantive equality. Despite this, women continue to be significantly under-represented in governance and development processes, and experience discrimination and diminished opportunity in virtually all development sectors. Contrary to a wide range of commitments that Pacific Island governments have made to achieving equality between men and women, women's perspectives and contributions continue in many cases to be on the periphery of development and governance dialogue.

'Mainstreaming' a gender perspective across all development sectors and integrating gender equality into governance initiatives was universally recognised in 1995 at the Fourth World Conference on Women held in Beijing, China as a critical strategy for achieving government commitments to gender equality and sustainable development. The Beijing Platform for Action (BPA) states that:

Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that, before decisions are taken, an analysis is made of the effects on women and men, respectively (UN Women 1995: para 202).

Gender mainstreaming was also recognised in the BPA as key to ensuring the enjoyment of human rights (ibid. para 229). The overarching objective of gender mainstreaming should thus be to ensure that all development processes proactively contribute to achieving gender equality.

### Definition of gender mainstreaming

*...the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.*

*(ECOSOC 1997)*

The Committee tasked with monitoring implementation of the *United Nations Convention on the Elimination of All forms of Discrimination against Women* (UNCEDAW), which is the principal international human rights treaty that defines and firmly embeds equality of women and men as a core element of the international legal order, and which has been ratified by 97 per cent of UN member countries, has explicitly called on States Parties to adopt a policy of gender mainstreaming as a strategy for achieving gender equality. For all Pacific Island countries and territories (PICTs) that have undergone an examination before the CEDAW Committee, the committee has either commended existing

efforts at gender mainstreaming (where such efforts were actively in place) or, more commonly, urged the State Party to develop or strengthen its gender mainstreaming policies and capacity where they were absent or insufficient (UNCEDAW 2007). Linked with this are the Committee's recommendations to strengthen the government machinery for gender equality (national women's machinery – NWM) with adequate human, financial and technical resources and the authority and decision-making powers that are necessary for them to coordinate and work effectively for the promotion of gender equality and gender mainstreaming.

## 1. Objectives and methodology

While gender mainstreaming gained significant momentum in the Pacific in the lead up to and early years following the Beijing Conference, perceptions are that the momentum was not maintained and that national governments do not have the necessary capacity to systematically integrate gender perspectives, including the provisions of CEDAW, into development processes. Without this capacity PICTs will not be able to achieve national, regional and international commitments to gender equality.

This stocktake was designed to determine the extent to which capacity for effective gender mainstreaming exists in national governments, and to identify potential areas of strategic intervention to strengthen such capacity. It is an initiative of the Secretariat of the Pacific Community (SPC), in collaboration with national governments and with support from the Government of Australia. It is being carried out in phases throughout the Pacific region in response to a call from Pacific Island ministers responsible for gender equality and the advancement of women. It is their hope that the stocktake will provide guidance to strategically strengthen the institutional capacity of governments to mainstream gender and realise their international commitments to equality between women and men.

The underlying premise of the stocktake is that national women's machineries<sup>1</sup> (NWMs) are key catalysts for the mainstreaming of gender and women's human rights but they are not the sole agency responsible for achieving it. To be effective, NWMs need both strong internal capacity and a wider government structure that is supportive of gender equality and mainstreaming. That wider structure must include a strong legal and policy framework supportive of gender equality and mainstreaming, genuine government commitment, a supportive organisational culture, clear accountability mechanisms, strong technical capacity, and adequate resources – in short, an enabling environment (see Box 1). SPC's initiative is thus designed firstly to take stock of that enabling environment, and secondly to collaborate with national governments and other development partners in the design and implementation of concrete, evidence-based strategies for enhancing it.

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<sup>1</sup> National women's machineries in this report refers to departments and/or ministries for women or those government offices responsible for gender issues or women's empowerment issues.



The stocktake does not review or assess the work of government or specific efforts at mainstreaming; rather it simply analyses the degree to which there is an enabling environment for such mainstreaming to take place.

The Kiribati stocktake process involved desk research combined with in-country structured interviews and focus group discussions. The in-country research was undertaken in September 2013, and 16 semi-structured interviews were conducted with ministries and divisions of the Government of Kiribati, including a representative range of both central and line ministries. In addition, shorter specifically focused discussions were held with the Ministry of Foreign Affairs and with the judiciary. Informants were senior government officials – secretaries, assistant secretaries or their representatives – with direct responsibility for policy development and programme implementation in their respective departments. In total, 11 men and 25 women were interviewed. In addition, focus group discussions were held with civil society and development partner representatives. Finally, in-depth discussions took place with the staff of the Women’s Development Division about issues of gender mainstreaming in government and the division's technical capacity to promote gender mainstreaming. Appendix 1 contains a list of offices and organisations interviewed or consulted.

The stocktake methodology has limitations. These include the rapid appraisal nature of the exercise, the dependence on national government selection processes for respondents and the variation in knowledge and seniority of respondents. These factors can result in gaps of information in the stocktake. To compensate and try to minimise these gaps, the draft report is circulated to government for review prior to finalisation and formal discussion. The stocktake is a snapshot in time and information will inevitably evolve.

#### Box 1.

##### Enabling environment requirements for gender mainstreaming

1. **Political will:** Demonstrated political will means that action is taken on stated gender equality commitments, and action is formalised within systems and mechanisms to ensure mainstreaming is sustainable
2. **Organisational culture:** The extent to which the attitudes of staff and institutional systems, policies and structures support or marginalise gender equality as an issue
3. **Legal and policy framework:** The extent to which gender equality and mainstreaming commitments are in place by virtue of ratification of relevant international human rights treaties, existence of constitutional and legislative provisions, and existence of government policy mandates
4. **Technical capacity:** The extent of skills and experience that organisations can draw on to support gender and human rights mainstreaming initiatives across and within their operations and programmes
5. **Adequate resources:** The allocation and application of human and financial resources in relation to the scope of the task of mainstreaming

6. **Accountability and responsibility:** The ways in which action on commitments to gender mainstreaming can be traced and monitored within organisations, and the mechanisms through which individuals at different levels demonstrate gender equality related results

## 2. Country overview

### a. Facts and figures

Kiribati	
<b>Population</b>	103,070 (50801 men, 52269 women) *
<b>Land area</b>	811 km <sup>2</sup>
<b>EEZ area</b>	3,550,000 km <sup>2</sup>
<b>Geography</b>	33 coral atolls (21 inhabited)
<b>Political system</b>	Parliamentary democracy
<b>Women's representation in Parliament</b>	4 seats out of 44 (2011)
<b>GDP per capita</b>	AUD 1,493 (2010)
<b>Main languages</b>	I-Kiribati, English
<b>Life expectancy M/F</b>	59.7 years/ 67.5 years*
<b>Labour force participation</b>	66.8% men / 52.3% women*
<b>Human Development Index</b>	Ranking : 121 **
<b>Gender Development Index</b>	N/A
<b>Gender Empowerment Measure</b>	N/A

\*2010 Census \*\* UNDP 2013

## b. Key gender issues

This section identifies gender issues highlighted and prioritised through government plans and policy documents in Kiribati. Source documents include the national *Kiribati Development Plan 2012–2015* (KDP), the 2013 draft national gender equality policy, the *National Approach to Eliminating Sexual and Gender-based Violence in Kiribati: Policy and Strategic Action Plan 2011–2021*, as well as policies and strategic plans of other ministries.<sup>2</sup>

The KDP is founded on the basis of two guiding principles: social protection/gender equality and results-based management. The KDP clearly states that the distinct needs of men and women, children and social groups were explored and considered during the planning process. Further, the plan stresses that government programmes and projects will be required to:

incorporate the development of an enabling environment for sustaining socio protection (gender empowerment with an emphasis on family, children, women's and men's rights).

There are no further gender-specific strategies included in the KDP. However, following from the KDP's high-level statement of commitment to gender equality, there are several sector-level policies and draft policies. These have been developed by the Women's Development Division (Ministry of Internal and Social Affairs) and by other ministries to highlight priority gender issues.

The draft national gender equality policy 2013 is aligned with the earlier *Women Development and Gender Equality Policy 1996*. This has been revised to reflect changing national priorities as outlined in the KDP and to clearly reflect specific gender issues that are priorities for Kiribati. It responds to the increasing amount of evidence on the extent of gender-based violence and is now aligned with the revised Pacific Platform for Action and complemented by the *National Approach to Eliminating Sexual and Gender-based Violence in Kiribati: Policy and Strategic Action Plan 2011–2021*.

The 2013 draft gender equality policy highlights a number of core issues related to achieving gender equality in Kiribati, including the four policy priorities described below. Work to address a number of these issues is already under way and will be strengthened and coordinated through the implementation of the policy, assuming availability of human and financial resources.

1. Ensuring legal and human rights protection for women and children particularly with regard to sexual and gender-based violence is a policy priority. Currently, there are a number of discriminatory laws and legal gaps in Kiribati, which create potential risk for women, girls and boys and which undermine development. In particular, laws on domestic violence and sexual exploitation of children and adolescent girls, as well as laws on citizenship, marital property and land rights require review, revision and/or supplementary laws to ensure that women have equal rights to

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<sup>2</sup> Policies and strategic plans were collected from ministries participating in the stocktake when they were available. Lack of access to, and limited time for the stocktake exercise mean that the policy review was not exhaustive and so findings presented here may be incomplete.

economic resources and custody of children, and to ensure that girls and boys are protected.

2. Equal opportunities for women and men in economic, social and political spheres and fostering shared responsibility for care-giving and work at the household level are a second priority policy area. Promotion of food security and sustainable livelihoods is a key development objective in Kiribati, as is economic growth. Women and men need to participate equally in both the economy and the home for these priorities to be realised. This will require gender analysis of issues by a number of ministries, and development of strategies to ensure programmes meet the needs of women and men and allow both groups to benefit. A critical aspect of economic and social empowerment is ensuring that women and men have equal opportunities to participate in the labour force and in decision-making without intimidation or stigmatisation. The need to mesh women's engagement in politics and in decision-making in the home with cultural norms is a challenge for Kiribati. Work is ongoing to honour I-Kiribati cultural systems and clarify how they can remain strong and also adapt to contemporary and international norms and standards of gender equality.
3. Health issues related to sexual and reproductive health and rights, and the incidence of domestic violence are other areas of concern. The issue of population growth is critical for Kiribati and it overlaps with women's rights to participate with men in decision-making in the home. The 2008 Family Health and Safety Study showed a significant relationship between intimate partner violence and higher birth rates; it also showed that women in violent relationships were not able to engage as equal partners in joint decision-making about family planning and that 68% of i-Kiribati women between 15 and 49 years old had experienced violence from an intimate partner. This connection is particularly relevant as a policy focus for both the gender equality and sexual and gender-based violence policies, as well as for health and population programmes.
4. Environmental issues, including climate change, water and waste management, and food security, are important gender issues in Kiribati, especially given its atoll geography and vulnerability to sea-level rise. Women bear a large element of responsibility for water and food security; consequently, infrastructure for water, transport and environmental engineering to reduce land degradation and mitigate climate change become gender issues. They are currently being addressed through a number of donor-funded initiatives, but they need to be coordinated with gender mainstreaming to further support improved decision-making and links with health and economic empowerment.

To address the above issues the draft gender equality policy highlights priority outcome areas for work across government. These outcome areas are linked to existing and planned programmes but will require additional resources for full implementation. The aspect of mainstreaming and coordination across government and with civil society is one that is currently constrained by a lack of technical capacity and financial resources.

The Ministry for Labour is developing a gender access and equality policy, which includes a focus on equal access to training and employment opportunities to improve women's access to non-traditional areas of work. It also addresses a current gap in public service policy. To date, there is no public service protection against sexual harassment and gender-related abuse of power in the workplace. The draft labour policy promotes zero tolerance for sexual harassment in workplaces and training institutions. This recognises that women have to struggle to take advantage of educational opportunities because they must cope, not only with economic and access issues, but also with harassment, intimidation and stigmatisation.

Other policy and programming attention to gender issues is evident in education, health, natural resources and energy ministries. However, the policy statements are relatively general, referring primarily to inclusion of women and girls and to ensuring their access to services. There are still constraints related to inter-ministry communication to fully harmonise and maximise the results of this programming with coordinated policy objectives. In some cases, gender analysis is being done as part of programmes funded by development partners and the results are not being fed back to the Women's Development Division or to other branches of the same ministry. This occurs particularly where donor-sponsored programmes hire external staff to implement and report on initiatives and information is: a) not internalised by government staff; and b) not incorporated in day-to-day decision making in departments and ministries.<sup>3</sup> This means that it is difficult to share and build on accomplishments and lessons learned through specific programmes.

## SUMMARY OF FINDINGS

### 1. National women's machinery

This section describes the current organisation of the national government department responsible for the promotion of gender equality.

#### a. Policy framework and structure of national women's machinery

##### *Government commitment to gender equality*

Kiribati ratified the *Convention on the Rights of the Child* in 1995 and submitted a report in 2006. The country also ratified the *Convention on the Elimination of All forms of Discrimination against Women* in 2004 and a draft report has been prepared but is not yet finalised. Through these ratifications, Kiribati committed itself to becoming a duty bearer for the human rights of women and girls, including ensuring their equality with men and boys.

In relation to government's commitment to ending sexual and gender-based violence, the *Te Rau N Te Mwenga Act*, the *Family Peace Act for Domestic Violence* was passed in 2014. It provides instruction on measures to prevent and respond to domestic violence and on how government and its agencies, as well as service

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<sup>3</sup> Stocktake respondents raised this issue in relation to gender and education and gender and climate change initiatives.

as service providers, can support victims and their dependents. It also includes several measures that are critical to holding offenders accountable. A related interim measure has been taken within the judicial system through the Time Disposition Policy. This policy prioritises domestic violence and juvenile cases and makes it mandatory that they be heard within a specific time window. In addition, as of 2013, the judiciary is disaggregating data on cases to clarify the numbers of: a) juvenile cases; b) domestic violence cases; and c) cases of violence against women that are not domestic.

As noted in the previous section, the government's commitment to gender equality is identified in the KDP and in policy and programming. In addition, a 2013 constitutional amendment has increased the number of government ministerial posts and established a new Ministry for Women, Youth and Social Affairs, which will take the lead on issues of gender equality, children and human rights.

### **Government policy**

High level direction for the Women's Development Division (WDD) comes from the KDP and MIA operating policies. Core policy direction is influenced through findings and lessons learned that are now reflected in the draft national gender equality policy 2013 and the *National Approach to Eliminating Sexual and Gender-based Violence in Kiribati: Policy and Strategic Action Plan 2011–2021*. In addition, due to its cross-sector responsibilities, gender-specific policy statements in other ministries and divisions influence the WDD. For example, policies linked to the *Convention on the Rights of the Child* (CRC) or working with persons with disabilities will have a bearing on the WDD workload and planning.

Key policy initiatives include an increased 'whole of government' approach to address gender equality and end violence against women and children. The draft gender equality policy proposes specific collaboration across ministries to ensure improved service provision and to support women's access to services provided by a range of ministries and government offices. Ministries also often engage with civil society organisations relevant to their sectors.

The draft gender equality policy also specifically states that men and women must be equal partners in development and that proposed initiatives will fit within existing structures of government and be harmonised with the *mwaneaba* system of cultural governance. This creates considerable scope for working across ministries and for working with central agencies. For example, the Ministry of Finance and Economic Development is to support integration of gender in government-wide planning and programmes. It also clarifies that men and boys need to be actively engaged as supporters of gender equality.

### **Budget support**

The Women's Development Division receives a recurrent budget from government to cover operating and salary costs for three permanent positions. There are also four programme staff positions funded by development partners; three are funded by the the Government of Australia and one is funded by the SPC's Regional Rights Resource Team (RRRT), supported the Changing Laws Protecting Women programme. In addition, a Safenet Coordinator is funded by the World Bank.

There are considerable extra-budgetary resources planned for Kiribati over the next five years and these are primarily targeted to support the government to address the issues of ending sexual and gender-based violence and support women's increased participation in decision-making.<sup>4</sup>

**Table 1. Budget information (AUD): Kiribati Government, Ministry of Internal Affairs and Social Affairs, Women's Development Division**

	2010 AUD	2011 AUD	2012 AUD	2013 AUD	Source documents
<b>Kiribati Government budget</b>					
Recurrent budget	80,408,985	81,911,752	88,301,307	93,205,573	Budget book as approved by <i>Maneaba ni Maungatabu</i> for each respective year
Development aid budget	7,111,067	7,455,687	6,987,345	5,881,710	Same as above
<b>Total</b>	<b>87,520,052</b>	<b>89,367,439</b>	<b>95,289,009</b>	<b>99,087,283</b>	
<b>MISA budget</b>					
Recurrent Budget	2,579,675	5,050,518	6,263,029	6,377,316	Budget book as approved by the <i>Maneaba ni Maungatabu</i>
Development aid budget	8,252,070	8,748,165	4,741,431	2,429,181	MISA project vote ledger
<b>Total</b>	<b>10,831,745</b>	<b>13,798,683</b>	<b>11,004,460</b>	<b>8,806,497</b>	
<b>WDD budget</b>					
Recurrent budget	Not in budget	63,899	83,943	91,434	Budget book as approved by the <i>Maneaba ni Maungatabu</i>
Development aid budget	166,959 47,000 (RRRT)	72,730 No RRRT	207,747 No RRRT	291,955 65,000 (RRRT)	MISA project vote ledger + RRRT Funds
<b>Sub-total</b>	<b>213,959</b>	<b>72,730</b>	<b>207,747</b>	<b>356,955</b>	
Aus Aid Volunteer Support – total programme cost – estimation			35,000 (Youth Ambassador – 7 months)	70,000 (AVI Volunteer – one year)	Includes total programme cost for recruitment and in-country support/placement – not just living allowances – estimation as agreed with Tarawa Post

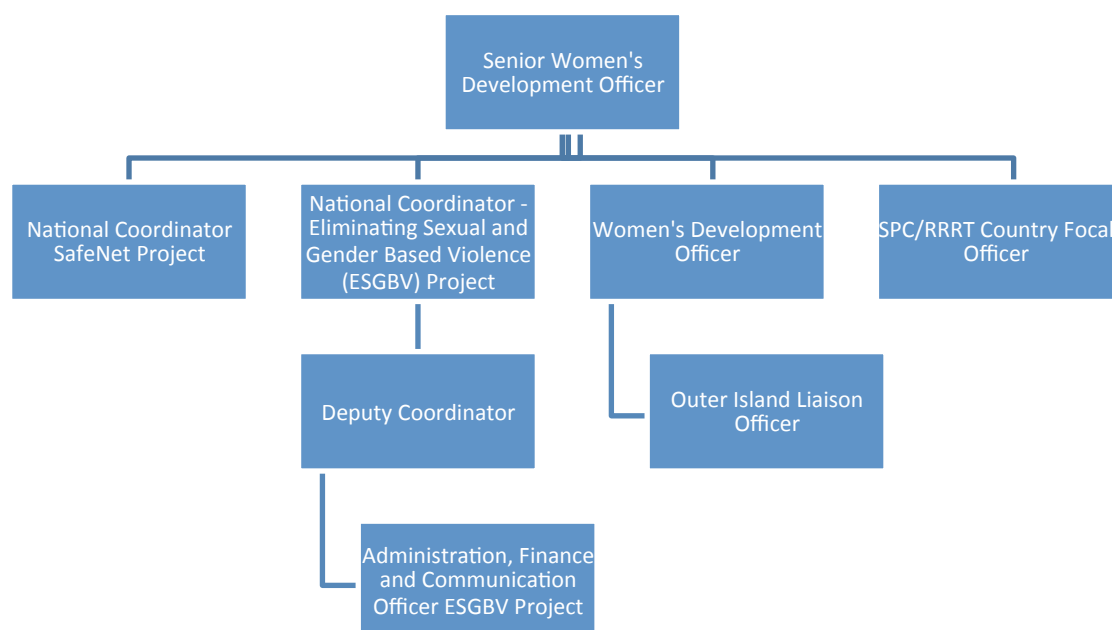
<sup>4</sup> Proposed funding allocations from donors for the *National Approach to Eliminating Sexual and Gender-based Violence in Kiribati: Policy and Strategic Action Plan 2011–2021*, including UN, World Bank, and the Government of Australia. Total is approximately AUD 2.5 million for the period 2012–2018. These funds would be coordinated through government for work in multiple ministries.



I-Kiribati Work Experience volunteer				3,500	Estimated value based on percentage of entry level salary
<b>Sub-total</b>	-	-	<b>35,000</b>	<b>73,500</b>	
<b>Total</b>	<b>213,959</b>	<b>136,629</b>	<b>326,690</b>	<b>521,889</b>	

### *Women's Development Division mandate and structure*

At the time of drafting the report, the Women's Development Division (WDD) sat within the Ministry of Internal and Social Affairs. The Ministry is comprised of nine divisions, a number of which are much larger than WDD – the largest being those responsible for local government and rural development. After consultations and drafting of the stocktake report, the Government of Kiribati in the fourth quarter of 2013 established the Ministry for Women, Youth and Social Affairs, which is now responsible for advancing gender equality commitments. The new ministry has a total of eight divisions.<sup>5</sup> The new WDD structure comprises three permanent staff and five project staff. There is also an Australian volunteer who provides support to the whole Ministry with a focus on institutional development.



This structure facilitates attention to programmes and the day-to-day business of government, and ensures that the Director is fully apprised of all activities managed through the division. The day-to-day business of the division entails considerable time responding to ad hoc requests, participating in meetings with development partners, and representing the division and the government on

<sup>5</sup> The divisions include: women's development division; sports development division; youth development division; NGO development division; social welfare division; civil registration division; elderly division; administration division (which includes accounts and registry).

committees at the national, regional and international level. The level of demand for WDD participation in national and international fora creates competing priorities and has undermined some of the division's key work, including development of the national CEDAW report, advocacy for gender mainstreaming across government and coordination of gender-related activities – especially those related to ending violence against women and girls.

The stocktake's detailed interviews with WDD and with the Ministry for Finance and Economic Planning clarified that WDD is primarily responsible for developing funding proposals to supplement the recurrent funding provided by government. This is current practice, as Kiribati does not have an aid coordination office. The lack of centralised support for development assistance means that WDD is constrained from seeking external funding because it lacks the human resource and technical capacity to develop and follow-up on external funding options.

Priorities outlined in the 1996 Women in Development Policy and revised in the 2013 draft gender equality policy shape the WDD mandate.<sup>6</sup> However, given constraints of limited human resources and technical capacity, as well as the limited absorption capacity of civil society and the rest of government, work to address these priorities has to date been focused through two primary programme areas: (i) eliminating sexual and gender-based violence (ESGBV), and (ii) supporting women to be more active in decision-making.

#### *Other government machinery*

Despite the fact that there are no explicit gender mainstreaming initiatives in place, the stocktake found that a number of government ministries have been supporting gender equality as a result of government commitments to international conventions and agreements such as CRC, the Rio Conventions (environment), the International Conference on Population and Development and the Millennium Development Goals. Gender analysis of sector issues has happened internally to some extent, but more commonly it has been done through development partner sponsored interventions.

In addition, ministries have been requested to identify focal points to participate on the CEDAW working group to finalise the draft report and coordinate information on initiatives across government. However, as noted above, this work has stalled in the past year due to imbalance between workload and staff capacity in the WDD and due to government prioritisation of sexual and gender-based violence (SGBV) programming. In addition, the CEDAW working group was constrained by a lack of consistency of membership and sporadic attendance.

#### *Civil society and the private sector*

Kiribati has an active network of civil society organisations that work on issues relevant to women and that actively promote gender equality. WDD noted that

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<sup>6</sup> Policy priorities in the draft policy include: promotion of gender equality, women's legal rights, improved access to services, enhanced mechanisms to promote the advancement of women, economic empowerment, eliminating violence against women.

they work with at least six main groups and they also work with networks of women's groups in the churches of Kiribati.<sup>7</sup> WDD encourages those groups to engage with other ministries to ensure that services across government are meeting women's needs and supporting equality between men and women.<sup>8</sup> Civil society groups met with the stocktake team and contributed significant inputs to the analysis of supports and barriers to gender mainstreaming in Kiribati. A number of their suggestions have been incorporated into this report. A complete record of their contributions is included in Appendix 3.

In the outer islands, civil society groups are important allies of WDD. They work with the local government and rural development divisions to promote gender issues in decision-making and provision of services. They also collaborate with the natural resource ministries to facilitate women's involvement in environmental management and food security.

Work with the private sector has been limited. However, WDD has provided some support to small initiatives for economic empowerment of women and has encouraged more gender balance in the provision of services on business literacy and livelihood opportunities. This work is being led by other ministries, including the Ministry of Commerce, Industries and Cooperatives; the Ministry of Fisheries and Marine Resources; and the Rural Development Division of MISA.

## **b. Analysis of supports and constraints for national women's machinery**

### ***Mandate***

As detailed above, the mandate of WDD has a strong focus on addressing sexual and gender-based violence and supporting women's increased participation in political decision-making. Through the SafeNet mechanism established as part the ESGBV programme coordination process, gender mainstreaming is taking place in the ministries of health and education as well as in the Police Service. The 2013 draft gender equality policy will expand the mandate of WDD considerably and will require additional resources to implement, including additional networks of allies across ministries and at the political level.

### ***Location within government***

WDD's current location within the Ministry for Internal and Social Affairs constrains its ability to influence other ministries and direct gender mainstreaming efforts. WDD has limited authority and does not have direct access to senior decision-makers from other ministries. This structure requires the division to first influence decision-makers within MISA and to then rely on MISA representatives to advocate for gender issues in meetings of permanent

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<sup>7</sup> See Appendix 1 and footnote below.

<sup>8</sup> Groups working to support implementation of development initiatives include AMAK (Kiribati National Council of Women), Teitoiningaina (Catholic Women's Association), KRBA (Teinainano Urban Council Women's Association), Kiribati Family Health Association, Kiribati Women Advocating Violence Elimination (includes male advocates), Kiribati Women's Activist Network and other church women's organisations.

secretaries or cabinet. Related to this, and because MISA has a large mandate, there is competition for financial resources internally.

A recent constitutional amendment has facilitated the creation of the Ministry for Women, Youth and Social Affairs, which will support WDD to more effectively plan and implement key gender equality milestones, including coordination of budgets with policy priorities. It will also facilitate additional profiles for gender issues in cabinet and increase the division's authority and influence related to gender mainstreaming.

### *Resources and capacity*

WDD is constrained by the combination of a heavy workload and too few staff with too little training in key skills. All staff noted that their workloads were unrealistic in relation to expected outputs and available time. Year-to-year recurrent budgets have not increased to compensate for progress in the mandate of the division and, consequently, some key tasks have been put on hold, including work on the country's overdue initial CEDAW report. Due to the limited staffing, the division has also been constrained from submitting new proposals to government for programme support and also from supporting NGOs to submit proposals.

Shortfalls in staff and financial resources also mean that WDD is constrained from delivering support to outer islands. Work is also constrained by the fact that where there are staff based on the outer islands, they lack the required technical capacity and understanding of policy priorities. Travel to the outer islands is time-consuming and expensive, and bringing women and men from the islands to Tarawa for training is very expensive and logistically complex.

### *Technical capacity*

Technical capacity of staff in WDD is self-assessed as moderate for gender analysis, gender responsive planning and project evaluation. Only two of the seven staff have specific training in these areas. Staff capacity for advocacy and influencing other arms of government was rated as high. This is based on experience gained through lobbying and advocating for policy revisions and the recent constitutional amendment.

All staff have learned programme and financial management skills on the job, and three staff have strong skills related to human rights and articulating development issues in relation to SGBV.

Skill gaps noted by WDD staff include gender analysis skills to support mainstreaming across sectors, data analysis to increase evidence related to women's and men's relative positions in society, understanding of CEDAW and how it relates to law and policy, training skills to facilitate delivery of training to communities in the outer islands, project management skills, and basic computer skills to support improved monitoring, evaluation and reporting on achievements.

WDD has benefited over the past year from the presence of a highly specialised volunteer from the Australian Volunteers International programme with extensive experience in gender and development. This person has assisted with

everything, from office management to gender analysis and planning and has built institutional capacity and provided coaching and mentoring to all staff.

Continued strengthening of staff capacity, and increasing the number of staff in the division will facilitate improved gender equality outputs. These include gender analysis of issues across government, improved and increased proposal preparation to facilitate mainstreaming, and improved coordination and harmonisation of efforts with development partners and other ministries. Such improvements will also support more collaboration and capacity development with CSOs and more effective outreach and coordination with programmes on outer islands. In turn, this will facilitate improved services and programmes for the most disadvantaged constituents of WDD. Developing an ongoing relationship with volunteer-sending organisations to provide continued in-house staff development, coaching and mentoring will also be strategic.

### *Reporting mechanisms*

There are a variety of reporting mechanisms in place at different levels. Institutionally, there are heads of division meetings twice a month and minutes are sent to the minister for review. Donor-funded programmes send reports back to donors on a quarterly basis and, on an ongoing basis, all staff informally share information.

WDD has a divisional work plan but it does not include indicators; progress is measured through staff meetings, verbal reports and, in some cases, written quarterly reports. Staff have their own work plans and these are monitored informally by the division director. There is a performance monitoring system, and performance reviews for permanent staff are linked to salary increment increases. Donors provide their own performance review forms for staff funded by programmes.

The above combination of reporting and monitoring processes are disjointed and do not proactively support achievement of results, development of lessons learned or coordination of initiatives. The lack of indicators to measure progress against work plans is a challenge that will need to be addressed as the new Ministry for Women, Youth and Social Affairs begins to implement gender related programming. In addition, coordinated reporting by the ministry from donor-supported programmes and core work can be used to generate evidence about gender and development initiatives and to increase understanding of how gender mainstreaming improves development results.

### *Sex disaggregated data*

WDD has limited ability to collect data on its own due to small staff numbers and lack of technical capacity. It also lacks data analysis skills to undertake gender analysis of available, census, DHS or administrative data. The staff have worked with the Statistics Office in the past, particularly for the Kiribati Family Health and Safety Study and subsequent related development of evidence, but since then, there has been limited collaboration. The Statistics Office also has time and staffing constraints that prevent it from providing in-depth services to specific divisions on an ongoing basis. Some gender analysis of census data has been

done, such as population characteristics, and this is very useful as a first step of evidence creation on gender issues<sup>9</sup>.

### *The role of civil society*

As noted above, civil society is a key support to the work of WDD. The presence of these groups on the outer islands is critical to dissemination of information, collection of feedback and managing logistics for any training or development opportunities related to gender issues.

WDD is limited in its ability to work with and support its civil society partners by lack of funds, its own small number of staff and lack of technical capacity to do training, proposal development and other types of skills enhancement.

### *The role of development partners*

Development partners have shown increasing support for WDD over the past few years, especially in relation to the work on ending sexual and gender-based violence. Development partners and regional agencies have also played a key role in introducing gender issues into the mandates of other ministries, including the Police Service, and the ministries of education; health; environment, lands and agriculture development; and labour. This is linked to the gender policies of specific partner agencies. For example, the stocktake team was informed that, in education, the Government of Australia has directed the implementing firm to incorporate gender issues into its major projects on teacher training and curriculum development.

Support to gender mainstreaming and moving forward with implementation of the draft gender equality policy and the new ESGBV policy and action plan will be critical over the next few years. Improved donor coordination by WDD and development partners themselves will support more harmonisation of work plans and increase information-sharing on cross-sector gender work. This will enhance and streamline the work of the Government of Kiribati to integrate gender across the Kiribati Development Plan.

## **2. Enabling environment overview**

This overview of Kiribati's enabling environment for gender mainstreaming looks at the factors required to successfully integrate gender equality considerations into the work of government. An explanation of these categories has been provided above in Box 1 and definitions are restated at the beginning of each section below. Of the factors that enable gender mainstreaming, political will and organisational culture are less tangible and more difficult to measure but they can have significant influence on how government staff behave, make decisions and whether they are aware and supportive of gender mainstreaming. Other factors that contribute to the enabling environment – including legal frameworks, technical capacity, financial resources and accountability mechanisms – are more concrete but understanding of those issues varies,

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<sup>9</sup> [http://www.spc.int/sdd/index.php/en/downloads/cat\\_view/46-dhs/68-kiribati-2009-dhs-fact-sheets](http://www.spc.int/sdd/index.php/en/downloads/cat_view/46-dhs/68-kiribati-2009-dhs-fact-sheets)

depending on an individual's background and position in government. However, for these latter factors, defined targets can be set and tracked to measure progress towards international norms and standards. Each of the enabling environment factors cuts across and influences the others, and shapes the way a government approaches its duty to fulfill women's and men's human rights and thereby promote gender equality. The sections below look first at the perceptual issues related to political will and organisational culture and then at the more tangible aspects of Kiribati's enabling environment for gender mainstreaming.

#### a. Perceptions about political will

*Demonstrated political will means that action is taken on stated gender equality commitments and action is formalised within systems and mechanisms to ensure mainstreaming is sustainable*

**Perceived level of political will for gender mainstreaming among government respondents:**

50% high/med-high

36% medium/med

14% low

When asked to rate the levels of commitment and political will for gender in government, half of respondents rated them as high or medium-high. The recent constitutional amendment to create another ministerial post to lead a ministry for gender equality and the extent of work being done on domestic violence were cited as examples that demonstrate high commitment. Respondents also noted that the number of women in top government posts is increasing, that women's organisations on some of the outer islands have become more organised, and that government has more positive responses to the requests and needs of those groups.

Those who rated political will as medium noted that government is doing little to integrate gender in the business of sector ministries. Another reason was that in a number of areas women are still struggling to enter non-traditional fields and training programmes. A third rationale was that government is not seen to be supporting women's voices being heard on development issues – particularly in the outer islands.

Low ratings were based on the perception that tradition and culture still outweigh women's rights to participate in decision-making forums, especially in the outer islands, and that parliamentarians respond positively to gender issues only if there is intense lobbying on specific issues.

Informants were asked about barriers or constraints to increased government commitment to gender. Traditional culture and attitudes were the most frequently identified barriers. The influence of male-dominated island councils, the culture regarding women's lack of power and ability to speak in *mwaneabas*, and the imbalance of men and women in parliament were noted as particular areas where these barriers are strongest. Additional issues included: a) that

women in the outer islands have less education than urban women and that this results in a lack of confidence to speak out on issues and take on new roles; and b) that traditional divisions of labour leave women with less free time to participate in development initiatives. Also cited were a lack of resources from government to: a) support awareness of gender equality as a contributing factor to development success; and b) to improve technical capacity for gender analysis and gender responsive planning.

Individuals noted that awareness raising and technical capacity building were critical to the success of gender mainstreaming across sectors and that, as a demonstration of political will, there need to be more specific government statements at the national planning level to direct ministry actions.

#### **b. Perceptions about the organisational culture of government**

*The extent to which the attitudes of staff and institutional systems, policies and structures support or marginalise gender equality as an issue*

Responses on the amount of attention given to gender as a development issue in respondent's ministry or division

15% high/medium high

54% medium/medium low

31% low

When asked about whether there was an organisational culture in their division or ministry that supports gender mainstreaming, and how much attention was paid to gender issues, 85% of respondents indicated that attention ranged from none to a medium amount. Only 15% said there was a high amount of attention.

Further discussion on this issue explored the basis of those perceptions. Individuals noted that gender is rarely included on meeting agendas, that staff do not know what gender and development refer to and commonly think it is only about women or the male/female staff balance in offices. It was noted that people do not have the skills to do gender analysis and so cannot understand how it relates to their work. In addition some respondents stressed that when gender training is offered, people do not attend unless pushed to go by their supervising manager.

Respondents said that at the central government level there was a lack of systems and processes to capture gender as a cross-cutting issue in planning and budgeting, even though the *Kiribati Development Plan* emphasises the need to consider cross-cutting issues. They also stressed that the KDP does not specify links to gender issues clearly enough and that it would be helpful if the national plan were more explicitly supportive of gender in each priority area; this would establish gender as more of a priority to be interpreted and integrated across ministry mandates.

A number of those interviewed said that gender came up as a discussion point in meetings with donors or in regional workshops. In some cases, gender was



noted as a programming element that should be addressed during implementation. Respondents noted that this support to gender mainstreaming was often negatively affected by the weaknesses in reporting and information management. For example, a number of people said they knew that their offices had implemented programmes with gender aspects but they did not know what those were or where information on those programmes might be found.

Some respondents confirmed that they meet on occasion with WDD. Some ministries are involved in the SafeNet process – e.g. the Police Service and the Ministry of Health – meet regularly and this maintains some focus on gender issues. Other officials said that meetings with WDD were informal or irregular and, while they did help to raise awareness of what the division was doing, there was no specific planning or coordination of work on gender issues.

On the more positive side, people indicated that there were some champions for gender mainstreaming in government. Some respondents identified themselves as champions and others identified this as the role of WDD. A number of respondents identified the President and Vice President as champions of gender equality for Kiribati because of the profile they have given to the Family Health and Safety Study findings and follow-up.

Others noted that there is an appreciation of women's contribution to development within the traditional division of labour, and they noted the need to consult on and include women's viewpoints when new programmes are implemented. However, it was also noted that information on women's and men's views are rarely disaggregated in reporting or planning. This undermines targeting of initiatives and gender analysis of results.

In terms of attention to gender equity issues in government, one ministry noted that, for some staff, there is still a perception that women taking maternity leave undermine progress of initiatives, rather than understanding that women's reproductive role contributes to social and cultural well-being and the state has a duty to compensate them.

Regarding male/female staff balance in government, as an indicator of equality of opportunity, many respondents noted that staffing dynamics are changing in government and that more women are taking senior positions. This was seen as a factor influencing organisational culture and willingness of offices to look at gender issues. Table 2 shows the staff balance for the three highest levels of posts in the ministries and divisions consulted for the stocktake. Comprehensive figures for posts in the outer islands were not available, but a number of respondents noted there are significant differences between men and women's employment status when rural areas and South Tarawa are compared.

**Table 2. Staffing balance in divisions and ministries involved in full interviews**

<b>Post</b>	<b>Position or majority of positions filled by women</b>	<b>Balance staffing between men and women</b>	<b>Position or majority of positions filled by men</b>
<b>Highest post</b>	6 ministries/ offices		8 ministries/ offices
<b>2<sup>nd</sup> highest level posts</b>	7 ministries/ offices	2 ministries/ offices	5 ministries/ offices
<b>3<sup>rd</sup> highest level posts</b>	5 ministries/ offices		9 ministries/ offices

The Police Service was the only section that identified an internal mechanism where female staff can discuss employment issues related to gender. There are 33 female police officers out of a total of 500 in Kiribati as a whole. The Police Women’s Advisory Network serves as a sounding board for staff, and supports women to undertake professional development and move up through the ranks. Currently, the highest post held by a woman in the Police Service is the fifth highest, with the rank of Inspector – there are two women at this level.

### **c. Legal and policy framework**

*The extent to which gender equality and mainstreaming commitments are in place by virtue of ratification of relevant international human rights treaties, existence of constitutional and legislative provisions, and existence of government policy mandates*

#### **Guiding international conventions and agreements**

Kiribati has signed international conventions, as well as global and regional agreements, that require and guide government to integrate gender into its work to ensure development results are achieved and that those results benefit all i-Kiribati citizens. This section provides an overview of the main agreements Kiribati is a party to.

**Table 3. International conventions relevant to gender mainstreaming in Kiribati**

<b>Commitment</b>	<b>Ratification/ signing date</b>	<b>Gender-related guidance in convention</b>
<i>Convention on the Elimination of All Forms of Discrimination against Women</i>	2004	All articles related to gender equality and non-discrimination
<i>Convention on the Rights of the Child</i>	1995	Addresses gender equality directly and addresses issues of non-discrimination
<i>Convention on the Rights of Persons with Disabilities</i>	2013	The preamble and seven articles specify gender issues related to persons with disabilities
<i>Convention on Biodiversity</i>	2004	Provides interpretation of gender issues, gender strategies and action plans related to the convention
<i>Framework Convention on Climate Change</i>	2000	Provides interpretation of gender issues, gender strategies and action plans related to the convention
<i>Convention on Desertification</i>	1998	Convention body and UN orgs have produced fact sheets and guides on gender issues related to desertification

### **Millennium Development Goals**

Kiribati progress on achieving the MDGs is varied. The 2012 MDG Tracking Report prepared by the Pacific Islands Forum Secretariat indicates that, while Kiribati has achieved the target of gender equity in primary and lower secondary school, there are significant areas where gender equality is a concern.<sup>10</sup> Levels of poverty and depth of poverty are significant. Because women have less access to economic resources, including land, it can be assumed that women-headed households, or women whose husbands have migrated or who are seafarers are poorer than the average, and that women who are widowed or have disabilities are more vulnerable to poverty. This is exacerbated by the fact that remittances have generally gone down and inflation is high at around 8%. The report notes issues related to low levels of employment generally and lower levels for women on average nation-wide, which exacerbates both women's poverty and the food poverty of households.

Contraception prevalence rates are low in Kiribati and are negatively impacted by the high rate of domestic violence and women's lack of decision-making power when male partners are abusive. Condom use is low in Kiribati and i-Kiribati women are highly vulnerable to HIV/AIDS and STIs due to the number of i-Kiribati seafarers who are on average very sexually active and who engage, on average, in high risk sexual behaviour abroad and at home. In South Tarawa, where commercial and transactional sex with seafarers from transshipment vessels is common, young women are particularly at risk of HIV and STIs.

With regard to the environmental MDGs, Kiribati is facing several challenges, all of which have gender dimensions because women and men have different roles

<sup>10</sup> <http://www.forumsec.org/resources/uploads/attachments/documents/MDG%20Track%20Rpt%20web%2020122.pdf>

and different knowledge sets related to environmental management. Issues of climate change, water and sanitation, squatter settlements, and land degradation all influence men and women differently.

Each MDG can be analysed from a gender perspective in order to support forward momentum to meet each indicator. There are a number of guides that can be referenced to support such analysis and identify proactive cross-cutting strategies.<sup>11</sup>

### **Regional agreements**

There are a number of regional agreements on gender equality that Kiribati has signed in recent years that also reflect regional commitment to international norms and standards. The regional agreements reinforce the relevance of gender issues for Pacific states such as Kiribati and support analysis and action on Pacific development priorities in the context of gender issues. As presented in Appendix 5, in 2012 Forum leaders made a comprehensive agreement to 'commit with renewed energy to implement the gender equality actions of:

- the *Convention for the Elimination of All Forms of Discrimination against Women*;
- the Millennium Development Goals (MDGs);
- the Revised Pacific Platform for Action on Advancement of Women and Gender Equality (2005–2015);
- the Pacific Plan;
- the 42nd Pacific Islands Forum commitment to increase the representation of women in legislature and decision making; and
- the 40th Pacific Islands Forum commitment to eradicate sexual and gender based violence.<sup>12</sup>

### **Constitution and legal framework**

The Kiribati Constitution was analysed for CEDAW compliance in a 2007 report produced by a collaboration of UNDP and UN-Women with a number of Pacific development partners.<sup>13</sup> A number of areas were noted where Kiribati is not in compliance CEDAW (see Appendix 6). Some of these are being addressed in current policy work but there are still outstanding areas for constitutional change and legislative revision to ensure that Kiribati is aligned with international norms and standards on women's human rights.

Two examples, under different arms of government, relate to: a) legality of discrimination against women; and b) protection for adolescent girls as victims of sexual offences.

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<sup>11</sup> <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6006.pdf>;  
[http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2013/3/f2\\_MDGF\\_TwoRoads\\_Web%20pdf.pdf](http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2013/3/f2_MDGF_TwoRoads_Web%20pdf.pdf)

<sup>12</sup> <http://www.pina.com.fj/?p=pacnews&m=read&o=4535371750416152240ff11f10ecf5> The full text of this link is provided in Appendix 3

<sup>13</sup> UNDP, UN-Women. Translating CEDAW into Law: CEDAW Legislative Compliance in Nine Pacific Countries. 2007.

- a) 'The Constitution of Kiribati guarantees the rights and freedoms of citizens in most of the areas required by CEDAW. However, whilst the Constitution guarantees men and women equality before the law, it does not guarantee equal benefits or outcomes as required by CEDAW. The rights and freedoms guaranteed are also subject to the rights and freedoms of others and the public interest. The Constitution of Kiribati contains an antidiscrimination clause but it does not include sex as a protected ground. This means discrimination against women is lawful in Kiribati and consequently, domestic laws which discriminate against women, although non-complaint with CEDAW, are not in breach of the Constitution.' (Translating CEDAW into Law, pp. 197 - 198)
- b) 'The requirement of penile penetration for most sexual offences excludes many of the ways in which women are sexually violated, and is not compliant with CEDAW. Violations perpetrated against girls under 15 are punished more seriously in Kiribati, whilst the violation of an older girl is treated less seriously, again in noncompliance. Thus, the penalty for the 'defilement' of a girl aged under 13 is life imprisonment whilst defilement against a girl aged between 13 and 15 is 5 years. Although an assault against a young girl may have more serious consequences, particularly if perpetrated by a person in a position of trust, the vast disparity between the sentences appears unjustified and perpetuates an erroneous assumption that it is less serious and harmful to assault a 'more mature' girl.' (ibid. p 198)

WDD has responsibility to finalise the national report to the CEDAW Committee and will take into account progress, draft legislation and proposed policies that address a number of issues highlighted in the 2007 analysis of Kiribati's compliance. This will be critical to establishing priorities for mainstreaming and for raising awareness with senior government officials about their duty to meet human rights obligations at all levels of law, policy and programme delivery.

#### d. Technical capacity

*The extent of skills and experience that organisations can draw on to support gender and human rights mainstreaming initiatives across and within their operations and programmes*

How would you describe the technical ability of your staff to do gender mainstreaming?

7% high/medium high

43% medium/medium low

50% low

Ministry and divisional staff participating in the stocktake (excluding WDD) rated technical capacity to do gender mainstreaming as medium to low overall. Only one ministry identified a medium-high capacity and none identified high capacity. This lack of technical capacity presents a very significant barrier to Kiribati's ability to do gender mainstreaming and points to a strategic area for improvement. It is interesting to note that, while most respondents felt technical capacity was low, they expressed an interest in the concept of gender mainstreaming and confidence that it could be integrated into the work of

ministries and divisions if people had skills and if there was careful attention to how it would be meshed with national priorities and cultural issues.

Of the staff interviewed, a number had been exposed to gender issues in the context of one-off short training sessions organised by WDD or development partners or as part of regional or international meetings. Eight of the staff interviewed (excluding WDD) had done more in-depth gender training; this ranged from two staff who had ten-day/two-week training in gender and economics and gender budgeting, to five staff who had four to six weeks training from SPC's Regional Rights Resource Team (RRRT), the Fiji Women's Rights Movement and/or the Fiji Women's Crisis Centre (FWCC), to one person who had taken a gender and environment course at university.

The stocktake attempted to collect information about how ministries manage training records of staff – which would facilitate more strategic capacity building – but the information was elusive. It seemed that most ministries track public service-related training but other professional development is recorded in a more ad hoc manner.

Five ministries or divisions (excluding WDD) reported that they have, at least once, had external specialists work on gender specific issues for their offices. Issues covered included reporting on gender, in one case for internal monitoring and in another for ILO reporting; undertaking gender analysis of statistical information; support on engaging women in economic development and engaging women in politics at the local level.

Professional development opportunities and bringing in specialists to assist with tasks builds capacity for gender mainstreaming. Stocktake participants were asked what forms of professional development, capacity building or training they thought would be most effective. There was a range of responses but the majority of respondents indicated that having ongoing support was critical to ensuring that skills learned were applied to the work of each office. Many people felt that it was important to provide a wide coverage of training at the gender awareness level so that most staff could understand the rationale behind gender mainstreaming initiatives and generate support. Others noted that it was important to have some highly skilled staff and that this can only be achieved by sending people on intensive training such as those offered by RRRT and FWCC.

Respondents also pointed out that, while mid-level government officials definitely need capacity development, this must be supplemented by initiatives that will facilitate: a) senior decision-makers being sensitised to gender and development issues so that they understand the links between mainstreaming and improved development results and become more willing to support investment in gender mainstreaming; b) men and women on outer islands having a chance to understand why gender equality is critical to improved development; and c) women from outer islands being given some specific support to become more active decision makers to redress historic disadvantages.

Constraints to capacity development that were cited during the stocktake included: a) funding; b) the fact that gender mainstreaming is not articulated as a core responsibility of most ministries; and c) the lack of understanding about

how gender relates to the day-to-day work of government ministries and divisions and development results.

#### e. Adequacy of financing for gender mainstreaming

*The allocation and application of human and financial resources in relation to the scope of the task of mainstreaming*

Are government and development partners financing gender equality adequately?

Yes – 50%

No – 36%

Variable depending on sector – 7%

Do not know 7%

Responses on the adequacy of funding for gender mainstreaming and the promotion of gender equality were split. Those who said there is adequate funding rationalised their statements by referring to recent work they have heard of on domestic violence, posters that indicate work is taking place on gender issues and HIV prevention, and the fact that donors seem to talk about gender quite frequently. None of the respondents were aware of the actual amount of funds allocated annually to gender issues in government. One ministry representative felt that staff do involve men and women in consultations and this demonstrates that mainstreaming is happening with existing investment.

Among those who indicated government is not investing adequately in gender mainstreaming, individuals noted that there are one-off programmes funded by donors but no recurrent funding is going to gender mainstreaming. (This excludes MISA, which has recurrent funds allocated for work on gender through WDD).

A number of individuals noted that a key constraint to adequate funding is the fact that gender issues are not analysed or articulated in the strategic plans of ministries or divisions and therefore funding allocations are unlikely to occur. Others noted that, because gender is a topic that donors focus on, more effort should be made to include gender in proposals; this was seen as a potential means for offices to attract more funds. However, it was also recognised by the same individuals that there are constraints in terms of staff technical capacity to develop gender responsive proposals and to subsequently implement them. Finally, one ministry noted that they had applied for government funds for a project to promote women's economic empowerment and the proposal was turned down. They interpreted this to mean government does not prioritise gender issues.

#### f. Accountability mechanisms

*The ways in which action on commitments to gender mainstreaming can be traced and monitored within organisations, and the mechanisms through which individuals at different levels demonstrate gender equality related results*

Gender focal point in ministry?

Yes – 33%

No – 59%

Do not know – 8%

One type of accountability mechanism to facilitate gender mainstreaming across government is to have a system of gender focal points who are responsible to help other staff do gender analysis of their work and integrate gender across work plans. In Kiribati, there are few government staff who have any responsibilities related to gender mainstreaming in their job descriptions or terms of reference. Staff in WDD are the only group with focused responsibility for gender equality issues and mainstreaming. Other ministries where staff have gender issues in their ToRs include the Police Domestic Violence Support Office (DVSO), and the ministries of health and education. The Police Service has two staff in the DVSO focused specifically on domestic violence only and the ministries of health and education each have one gender focal point but these latter two are not dedicated gender positions – they have other duties as well.

People interviewed for the stocktake were asked if there are specific constraints to integrating responsibility for gender into staff positions in their ministries or divisions. Financial constraints were identified where respondents assumed that including additional responsibilities would inevitably lead to identification of gender issues needing more attention, which would lead to a bigger workload and eventually require an additional position. Other respondents felt that men in their ministries would complain about the creation of gender focal point positions and still others said that the positions would not work well in rural settings because men would not want to listen to women talking about gender equality. Finally, a number of people said there were not any really significant constraints but that staff would need clear terms of reference and considerable training to actually do something with the role of gender focal point.

Other accountability mechanisms include tracking and analysing sex-disaggregated data and reporting specifically on gender issues. Of the 14 ministries and divisions that responded to the question: Does your ministry/division collect data? nine said they always collect data and four said they sometimes collect data. Of this same group, three offices said their data are always sex-disaggregated, six said data were sometimes disaggregated; three said they were never disaggregated and two were not sure.

Without consistent sex-disaggregated data collection it is very difficult to create an evidence base about gender issues and report on progress on equality and human rights. Some ministries, of course, collect mainly technical data that does not relate to people, but many said they collect information about households, communities or groups such as youth and children without specifying the differences between men and women, girls and boys.

It should be noted that there is promise for clear gender analysis of data as demonstrated by the work done by the Kiribati Statistics Office and SPC. Two



fact sheets done to-date with gender disaggregated information on selected aspects of women's empowerment and HIV/AIDS provide examples (see Appendix 4).

### 3. Analysis of supports and constraints for gender mainstreaming across the whole of government

Reviewing the information collected in the stocktake, a number of specific supports to gender mainstreaming stand out. There are also some significant constraints that need to be reduced for mainstreaming to be an effective development approach in Kiribati.

#### a. Supports

There are a number of existing supports for gender mainstreaming in Kiribati that can be built on and enhanced to increase and improve government efforts at mainstreaming. They include:

- **the political leaders who have spoken out on difficult social issues such as sexual and gender-based violence.** They help to promote awareness that Kiribati will not thrive unless government fulfills its role as a duty bearer for the human rights of men and women, girls and boys on an equal basis;
- **the government's recent constitutional amendment that supports development of a stand-alone ministry.** This will have more influence and authority to guide gender mainstreaming and support the empowerment of women;
- **the increased attention to involving women in local government and support from the Commonwealth Local Government Forum.** This is an existing support that can be built on and strengthened to foster mainstreaming efforts and address some of the gender imbalances in decision-making in the outer islands;
- **new legislation and policy oriented towards ending domestic violence, revised policing and judicial practices to address cases of violence, and attention to sexual violence, including training of health professionals.** These are all supports for gender mainstreaming that will provide lessons learned to demonstrate the benefits of coordinated government response on a key development issue. The proposed labour policy to address women's access to training and employment, as well as to address issues of sexual harassment will provide another support to mainstreaming within government;
- **the existing local knowledge and skill base of gender-focused civil society organisations and the network of women's groups in the outer islands.** These provide a system that can be used to raise awareness and promote advocacy. Relevant skills include the ability to organise meetings, target the appropriate beneficiaries, negotiate within traditional power structures, and interpret some gender issues in local contexts; and

- **the existing, albeit limited, skill base of government staff who have received similar training from regional agencies, including RRRT, FWCC and FWRM.** They comprise a cadre of government staff who can provide leadership and mentoring to colleagues and advice to senior managers on gender analysis, planning and programming.

#### **b. Constraints**

There are some significant constraints that need to be removed or reduced if Kiribati is to take advantage of the support factors listed above.

- General lack of understanding among both male and female senior officials about what gender and development are, and how gender mainstreaming relates to improved development results. This is a major constraint to gender mainstreaming.
- Weak information management about objectives and results of existing gender responsive initiatives is a constraint that prevents government staff from sharing lessons learned and methodologies for integrating gender into programmes. If government staff are unaware of, or have not analysed lessons learned, they cannot feed them back into policy and programme cycles for improved and more effective outputs.
- Decision-making practices at the community level, particularly in the outer islands, both inhibit and restrict women from contributing to and benefiting from development initiatives.
- Levels of intimate partner violence and lack of attention to sexual exploitation of children and adolescent girls restrict girls' freedoms and inhibit all aspects of development in Kiribati.
- Limited allocation of financial and human resources by government to support gender equality and provide support for gender mainstreaming is a major constraint.
- There is a lack of centralised government requirements for gender issues to be identified in proposals submitted to the Ministry of Finance and Economic Planning.
- The lack of gender disaggregated data at the community and household level and on child health is a constraint to improving an evidence base to inform gender mainstreaming and gender responsive planning.

#### **c. Additional factors affecting an enabling environment for gender mainstreaming in Kiribati**

The Government of Kiribati has a number of high priority development issues related to the social and economic well-being of the country. Poverty, climate change and population growth are all critical issues and could be perceived as competing priorities for the new Ministry of Women, Youth and Social Affairs (MWYSA). It will be important for the ministry to build awareness that gender mainstreaming will improve development results related to poverty reduction, that improving equality in decision making between men and women will support family planning and improve child health and welfare, that engaging

both men and women more fully across the education system and labour force will improve community stability and household income, and that integrating gender issues into environmental management will increase the reach of climate change adaptation and mitigation strategies. These issues could, in addition to work on ESGBV, be considered as pilot areas for gender mainstreaming work by the MWYSA.

## **4. Summary of preliminary findings and recommended strategic approaches for gender mainstreaming**

### **a. Political will and organisational culture**

Preliminary findings indicate that political will for gender mainstreaming in Kiribati is relatively high at the national level and lower in the outer islands. The organisational culture of government is both a constraint and a support to gender mainstreaming.

At the national level, the organisational culture of government is influenced by the changing demographics of the public service. More women are being appointed to senior posts and becoming managers, which demonstrates the abilities of both men and women to be leaders and decision-makers. However, organisational culture is also strongly influenced by traditional norms and there is still a lack of awareness about how to do gender analysis and integrate concepts of gender equality into programmes targeted for the outer islands. Developing rationale to clarify how gender equality improves the quality of life for everyone, protects community stability and increases the life chances of children has to be done in a way that will build alliances with traditional leaders and support them to become gender equality advocates.

The WDD has developed a cadre of male advocates and this needs to be revitalised at both the national and outer island level to continue to strengthen political will and foster improvements in the organisational culture. Concurrently, initiatives to involve women in decision-making need to be supported and strengthened to model leadership and equality.

Strategic approaches to strengthen political will and enhance organisational culture include:

- continuing to work closely with gender advocates at both the political and bureaucratic level and undertake public service awareness campaigns about the links between gender mainstreaming and improved development results;
- revitalising and expanding the network of male advocates for gender equality and expanding their understanding of gender issues to include gender analysis and gender mainstreaming;
- continuing to work with women and men in the outer islands to support increased participation of women in Island Council governments; and
- continuing to profile the work on ESGBV as a critical element contributing to the positive overall development of Kiribati.

## b. Legal and constitutional frameworks

Considerable work has been done to secure the constitutional amendment that enabled the creation of MWYSA. Work is under way, based on the new *Family Peace Act for Domestic Violence*, to put in place specific laws on domestic violence, and there are a number of draft policies being developed that support gender mainstreaming. This work is, however, not as yet fully coordinated.

Kiribati has developed a draft of its initial CEDAW report but staffing, financial and workload constraints have stalled this work.

Strategic steps to strengthen legal and constitutional frameworks include:

- as a priority, re-establish the CEDAW Coordinating Committee with senior officials as ministry representatives. Submit the committee's terms of reference to cabinet for approval to ensure high-level accountability of each ministry.<sup>14</sup> Terms of reference of the group should be to: a) oversee gender-related legislative reviews as well as finalisation of the CEDAW report; b) coordinate information on forthcoming and existing policies that support gender equality; and c) support collaboration on funding proposals that have the potential to mainstream gender across sectors;
- use the CEDAW committee as an advisory panel to guide the MWYSA and develop a straightforward gender-mainstreaming plan with clear milestones and indicators.

## c. Technical capacity

At present there is very limited technical capacity for gender analysis; gender responsive planning; and project management, implementation and monitoring and evaluation. The concept of gender mainstreaming is not widely understood.

Initial strategies to build capacity for gender mainstreaming overlap with the need to increase political will and organisational culture. Related changes that will support this work include:

- developing capacity profiles for staff in WDD and MWYSA and work with development partners to provide tailored professional development support for those staff through in-house coaching and mentoring;
- working with the Public Service Office (PSO) to develop performance incentives linked to training and capacity development in gender analysis and gender responsive planning and programme management;
- seeking multi-year donor support for coordinated capacity building to create a cadre of skilled professionals who can integrate gender across government sectors; and
- collaborating with development partners to integrate discussions on gender issues into high level meetings and programme training sessions

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<sup>14</sup> Compliance with CEDAW includes gender mainstreaming efforts and the committee's work can be submitted to cabinet as a special government initiative. Cabinet approval would increase the authority of the committee to engage the whole of government and would ensure serious commitment to mainstreaming work.

on poverty reduction, population issues and climate change. Use these sessions to raise awareness and create a network of government staff who have been exposed to concepts of gender analysis of sector issues.

#### **d. Financing**

Financing of gender mainstreaming is a major constraint for Kiribati, partially due to limited government budgets and the small amount of programme funds available through the recurrent budget, but also due to workload and capacity constraints faced by WDD. Additionally, the lack of an aid coordination office in the Kiribati government means that WDD has no support for proposal development, submissions and follow-up, and there is no coordination with proposals submitted by other ministries.

Recommended initial action to address this issue include the follow strategies:

- building on the recommendation above to re-establish a high level CEDAW committee and have that committee share information and support collaborative funding proposals to mainstream gender across sectors; and
- ensuring that WDD/MWYSA staff capacity profiles include skills on proposal development and negotiation so that recommendations from the stocktake are coordinated with and complementary to funding proposals for ESGV and increasing women's political participation. This will maximise the effectiveness of development funding.

#### **e. Accountability mechanisms**

Accountability mechanisms for gender mainstreaming are weak in Kiribati. Holding the whole of government accountable for its duty to promote gender equality is complex and requires the commitment and explicit authority of senior government officials and politicians. It also requires systems for data collection and analysis, gender analysis of initiatives, information sharing, tracking effort and monitoring progress. These systems are weak or missing in the work of most government ministries.

#### **Recommended strategic actions**

- Work with development partners to strengthen capacity for data collection and gender analysis of data in each ministry and at the central level. Support WDD/ MWYSA to compile information and build evidence on specific issues.
- Development partners provide technical assistance for WDD to develop simple, feasible work plans, progress indicators, and documentation procedures with WDD and the MWYSA to improve accountability and facilitate monitoring of gender mainstreaming effectiveness.
- Building on the recommendation to re-establish a CEDAW Coordinating Committee, use that committee as lead gender focal points for their ministries. WDD is to support them to recommend the establishment of a network of male and female gender focal points in their own ministries. Ideally, each ministry division should have a focal point with simple terms

of reference linked to sharing information with colleagues and acting as a contact point for WDD. Focal point responsibilities can be linked to incentives and PSO performance appraisals.

- Seek development partners' support to provide technical assistance to the Ministry of Finance and Economic Development and WDD to integrate the gender impact analysis section into existing templates. Provide simple guidelines and short training sessions for the use of this section to all ministries. Conduct sample audits on the quality of inputs received in the first year of implementation and use the findings to guide the second round of training.

## 5. Conclusion

The stocktake was undertaken to initiate a discussion for adopting strategic measures to effectively and strategically advance gender equality in Kiribati. The Government of Kiribati recognizes the importance addressing gender inequality in all spheres of development. In 2014, important strides have been made to advance the gender equality agenda. A review the draft national gender equality policy was undertaken by the Ministry for Women, Youth and Social Affairs and Cabinet recently endorsed the Kiribati Shared Implementation Plan (SHIP) to address sexual and gender based violence.

The Government of Kiribati recognizes that gender mainstreaming is an approach that needs to be adopted by all government institutions in order to achieve gender equality, improve government's service delivery and governance mechanisms. As such, gender mainstreaming is one of four key priorities in the draft national gender equality policies. The stocktake exercise and recommendations provides the impetus to advance this discussion and put in place measures to support gender mainstreaming.

## APPENDICES

### Appendix 1. Ministries and organisations consulted

#### **1. Government ministries**

Office of Beretitenti [Office of the President]

- Policy Unit

Ministry of Commerce, Industries and Cooperatives (MCIC)

- Administration/Management Division

Ministry of Communication, Transport and Tourism Development (MCTT)

- Tourism Division
- Civil Aviation Division
- Information and Communications Technology Division
- Administration/Management Division

Ministry of Education (MOE)

- Kiribati Education Improvement Programme
- Kiribati Education Facility

Ministry of Environment, Lands and Agricultural Development

- Environment Division
- Lands Division
- Agriculture Division
- Administration/Management Division

Ministry of Finance and Economic Development (MFED)

- Planning Division
- Statistics Division

Ministry of Fisheries and Marine Resources (MFMRD)

- Administration/Management Division

Ministry of Foreign Affairs and Immigration (MFAI)

- Asia Pacific Division

Ministry of Health and Medical Services (MHMS)

Ministry of Internal and Social Affairs (MISA)

- Women's Development Division,
- Local Government,
- Rural Planning Division
- Community Development Services Division

Judiciary

- Office of the Chief Registrar



Ministry of Labour and Human Resources Development (MLEHRD)

- Labour Division

Kiribati Police Service (KPS)

- Domestic Violence and Sexual Offences Unit

Public Service Office (PSO)

Ministry of Public Works and Utilities (MPWU)

- Energy Planning Unit
- Quality Unit
- Water Engineering Unit

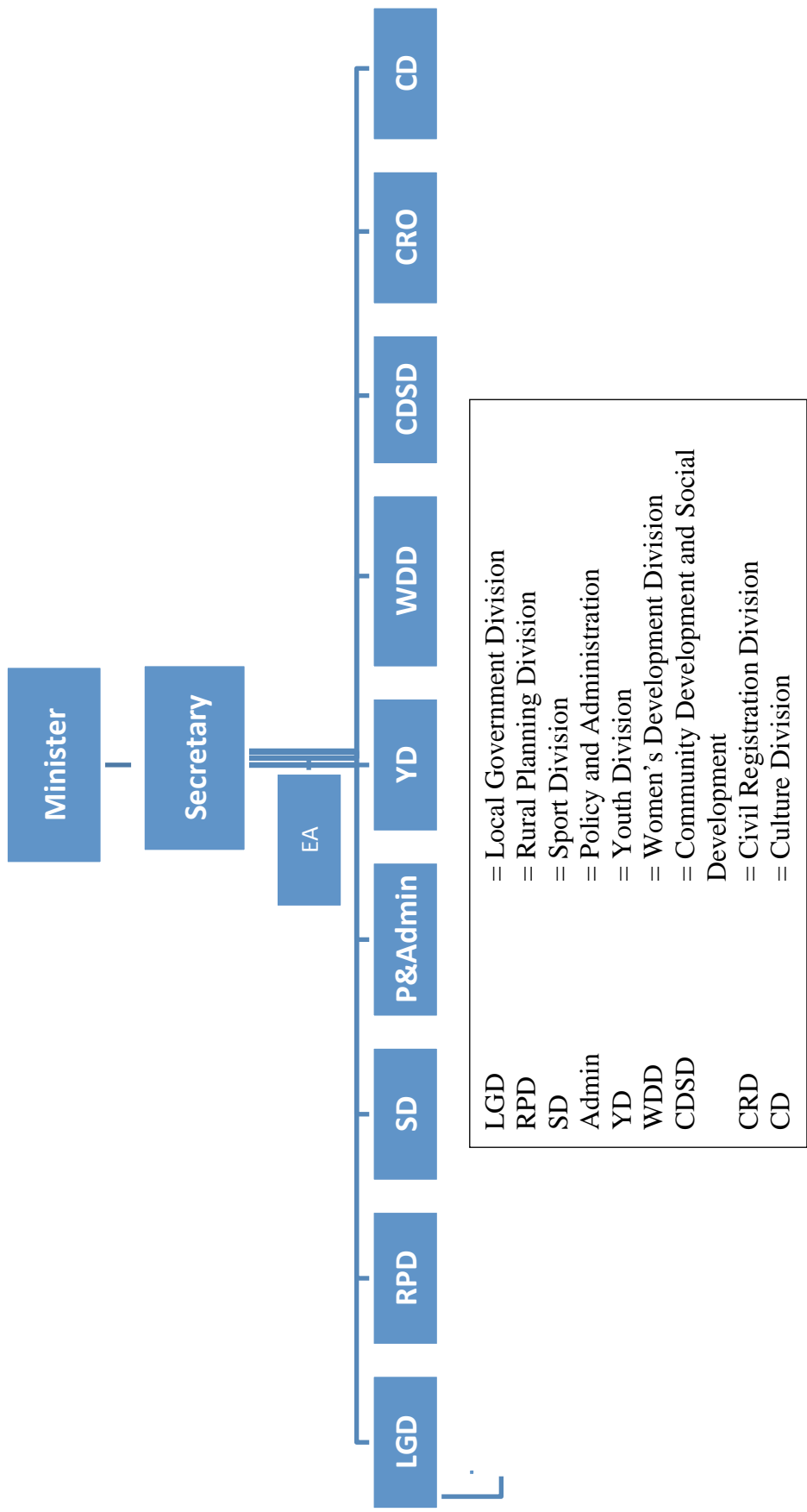
## **2. Development Partners**

- Government of Australia
- UNDP
- UNICEF
- UN-Women

## **3. Civil Society**

- AMAK (Kiribati National Council of Women)
- Kiribati Family Health Association
- KRBA (Teinainano Urban Council Women's Association)
- Teitoiningaina (Catholic Women's Association)

## Appendix 2. Ministry of Internal Affairs organisational structure



## Appendix 3. Civil society recommendations to support increased gender equality in Kiribati

The stocktake team from SPC met with a group of representatives from civil society including churches, the private sector and NGO action groups. A presentation was made on the stocktake process and civil society organisation representatives were invited to discuss their views on constraints and supports to gender equality and gender mainstreaming in Kiribati. A number of those points have been incorporated into this report. In addition, the group identified barriers and support to gender mainstreaming and actions to reduce barriers and strengthen or enhance supports. These are listed below.

### Barriers to gender mainstreaming

- ❑ No provision under national conditions of service for paternity leave
- ❑ Private sector and NGOs [policies are not as progressive as in the public service]
- ❑ Special training opportunities for women have ended [for example, Police and Maritime Training College]
- ❑ People think that 'gender' is only about women
- ❑ Cultural and traditional attitudes and traditional roles of men and women
- ❑ Lack of funding for gender equality initiatives
- ❑ Lack of training opportunities for NGOs/workers and governments working on gender equality and women's empowerment

### Actions to reduce barriers

- ❑ Include gender in education curriculum
- ❑ Raise awareness at the island council level
- ❑ Work with faith-based organisations to support gender mainstreaming
- ❑ Make gender more visible, and more clearly articulated, in the planning processes of government
- ❑ Recommendation: Ensure creation of the Ministry for Women

### Supports to gender mainstreaming

- ❑ National gender equality policy (draft)
- ❑ *Family Peace Act for Domestic Violence*
- ❑ Women's organisations are included in government committees/ taskforces
- ❑ Gender mainstreaming is slowly gaining traction through examples of work in some ministries. For example, the eliminating of violence against women project and, through this, the inclusion of different government ministries in gender issues.
- ❑ NGOs are doing a fair bit of awareness and innovative programmes like peer to peer.

### Actions to strengthen supports

- ❑ NGOs to lobby and create demand from government to do more on gender equality

- ❑ NGOs and government allies to lobby all ministries of government to include gender in their policies (e.g. youth policy).
- ❑ Find resources to implement the national gender equality policy
- ❑ Formalise partnerships with government
- ❑ Analyse gender mainstreaming implications for each of the MDGs and integrate into the strategies under the KDP

## **Appendix 4. News release: Pacific Leaders Gender Equality Declaration 2012**

The Leaders of the Pacific Islands Forum met from 27 to 30 August 2012 in Rarotonga and brought new determination and invigorated commitment to efforts to lift the status of women in the Pacific and empower them to be active participants in economic, political and social life.

Leaders expressed their deep concern that despite gains in girls' education and some positive initiatives to address violence against women, overall progress in the region towards gender equality is slow. In particular Leaders are concerned that women's representation in Pacific legislature remains the lowest in the world; violence against women is unacceptably high; and that women's economic opportunities remain limited.

Leaders understand that gender inequality is imposing a high personal, social and economic cost on Pacific people and nations, and that improved gender equality will make a significant contribution to creating a prosperous, stable and secure Pacific for all current and future generations.

To realize this goal, Leaders commit with renewed energy to implement the gender equality actions of the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), the Millennium Development Goals (MDGs), the Revised Pacific Platform for Action on Advancement of Women and Gender Equality (2005 to 2015); the Pacific Plan; the 42nd Pacific Islands Forum commitment to increase the representation of women in legislatures and decision making; and the 40th Pacific Islands Forum commitment to eradicate sexual and gender based violence.

To progress these commitments, Leaders commit to implement specific national policy actions to progress gender equality in the areas of gender responsive government programs and policies, decision making, economic empowerment, ending violence against women, and health and education:

### **Gender Responsive Government Programs and Policies**

- Incorporate articles from the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) into legislative and statutory reforms and policy initiatives across government;
- Support the production and use of sex disaggregated data and gender analysis to inform government policies and programs;
- Strengthen consultative mechanisms with civil society groups, including women's advocacy groups, on key budget and policy issues of national and sub-national governments.

### **Decision Making**

- Adopt measures, including temporary special measures (such as legislation to establish reserved seats for women and political party reforms), to accelerate

women's full and equal participation in governance reform at all levels and women's leadership in all decision making.

- Advocate for increased representation of women in private sector and local level governance boards and committees (e.g. school boards and produce market committees).

### **Economic empowerment**

- Remove barriers to women's employment and participation in the formal and informal sectors, including in relation to legislation that directly or indirectly limits women's access to employment opportunities or contributes to discriminatory pay and conditions for women.
- Implement equal employment opportunity and gender equality measures in public sector employment, including State Owned Enterprises and statutory boards, to increase the proportion of women employed, including in senior positions, and advocate for a similar approach in private sector agencies;
- Improve the facilities and governance of local produce markets, including fair and transparent local regulation and taxation policies, so that market operations increase profitability and efficiency and encourage women's safe, fair and equal participation in local economies.
- Target support to women entrepreneurs in the formal and informal sectors, for example financial services, information and training, and review legislation that limits women's access to finance, assets, land and productive resources.

### **Ending violence against women**

- Implement progressively a package of essential services (protection, health, counselling, legal) for women and girls who are survivors of violence.
- Enact and implement legislation regarding sexual and gender based violence to protect women from violence and impose appropriate penalties for perpetrators of violence.

### **Health and Education**

- Ensure reproductive health (including family planning) education, awareness and service programs receive adequate funding support;
- Encourage gender parity in informal, primary, secondary and tertiary education and training opportunities.

Leaders called on Development Partners to work in a coordinated, consultative and harmonised way to support national led efforts to address gender inequality across the region in line with the Paris Declaration on Aid Effectiveness and Cairns Compact on Strengthening Development Coordination in the Pacific. Leaders also requested

Development Partners to increase financial and technical support to gender equality and women's empowerment programs, and to adopt strategies within their programs to provide employment and consultation opportunities for women in the planning and delivery of development assistance to the region.

Leaders agreed that progress on the economic, political and social positions of women should be reported on at each Forum Leaders meeting. They directed the Forum Secretariat, with the support of the Secretariat of the Pacific Community and Development Partners, to develop, as part of the Pacific Plan performance monitoring framework and annual report to Leaders on country progress in implementing the above commitments and moving towards achieving greater gender equality.

SOURCE: PIFS/PACNEWS By Online Editor  
1:13 pm GMT+12, 01/09/2012, Cook Islands

## Appendix 5. Legislative Compliance with CEDAW (2007)

EXCERPT FROM: Translating CEDAW into Law

### Section 4.2 Synopsis of Findings for Kiribati

1. Article 1 (which defines discrimination) in conjunction with Article 2 requires States Parties to guarantee a range of fundamental rights and freedoms in their constitutions including substantive equality and freedom from discrimination on grounds of sex, marital status, sexual orientation, HIV status and disability. The Constitution of Kiribati guarantees the rights and freedoms of citizens in most of the areas required by CEDAW. However, whilst the Constitution guarantees men and women equality before the law, it does not guarantee equal benefits or outcomes as required by CEDAW. The rights and freedoms guaranteed are also subject to the rights and freedoms of others and the public interest. The Constitution of Kiribati contains an antidiscrimination clause but it does not include sex as a protected ground. This means discrimination against women is lawful in Kiribati and consequently, domestic laws which discriminate against women, although non-compliant with CEDAW, are not in breach of the Constitution.

2. Articles 2 and 3 together mandate the establishment by legislation of national bodies and machinery to monitor the implementation of law and policy to foster the advancement of women. Kiribati, to date has not instituted such a mechanism.

3. Article 2 condemns discrimination against women in all its forms and obligates States Parties to eliminate discrimination against women without delay. General Recommendation 19 issued by the CEDAW Committee makes explicit that the definition of discrimination includes gender violence and recommends that 'sanctions, penalties and compensation' be introduced in relation to gender based violence. Sexual assault is a form of gender violence as it is overwhelmingly perpetrated against girls and women, and therefore must be prevented and remedied, as far as possible, through legislative means. Kiribati has legislated against sexual assault. The sexual assault laws, however, provide inadequate protection for the range of sexual violations perpetrated against girls and women. All sexual offences require penile penetration, (except indecent assault which only attracts an inadequate maximum 5 year sentence). The requirement of penile penetration for most sexual offences excludes many of the ways in which women are sexually violated, and is not compliant with CEDAW. Violations perpetrated against girls under 15 are punished more seriously in Kiribati, whilst the violation of an older girl is treated less seriously, again in noncompliance. Thus, the penalty for the 'defilement' of a girl aged under 13 is life imprisonment whilst defilement against a girl aged between 13 and 15 is 5 years. Although an assault against a young girl may have more serious consequences, particularly if perpetrated by a person in a position of trust, the vast disparity between the sentences appears unjustified and perpetuates an erroneous assumption that it is less serious and harmful to assault a 'more mature' girl.

4. Incest is a gendered crime since it is primarily perpetrated against women and girls by men in the context of unequal power relations. Criminalising all parties to an incestuous sexual encounter is contrary to CEDAW and may dissuade a victim of an incestuous sexual assault from reporting it in fear of being charged with an offence. In Kiribati, in noncompliance with CEDAW, incest is an offence for a girl aged 15 years or above attracting a penalty of 7 years. It is also an offence for a 'native' to have sexual intercourse with a 'collateral' (i.e., a relative who is no more removed than one cousin) which also has a penalty of a 7 year sentence.

5. The admission of the prior sexual history of a victim in order to establish that she consented to the sexual act in question is a common law rule which perpetuates the myth that a victim's previous sexual relationship with either the accused or others



makes it more likely she consented, and is contrary to the principles of CEDAW. In the prosecution of sexual offences and in compliance with CEDAW, Kiribati has legislated against the use of prior sexual conduct in most circumstances unless it is relevant to the reliability of the complainant's evidence. Corroboration (independent evidence such as that of a witness that connects the accused person with the crime) is a common law rule that requires a judge to advise the jury that it is dangerous to convict the accused on uncorroborated evidence. Kiribati, in compliance with CEDAW, has legislated against the necessity for corroboration in sexual offence prosecutions. Proof of resistance is a common law rule which requires victims to establish that they physically resisted the perpetrator otherwise consent may be inferred. It is discriminatory because physical resistance may be an unrealistic expectation of a victim against a strong or armed perpetrator, and does not take into account that fear and power imbalances may immobilise the victim. Kiribati, however, has not legislated against the requirement for proof of resistance by the victim in non-compliance with CEDAW.

6. Although there is generally no defence in sexual assault prosecutions in Kiribati for the accused to claim that he did not know the girl was not of legal age, there is an exception in relation to a charge of defilement of a girl between the ages of 13 to 15. This places the onus on the minor to establish her age rather than the perpetrator to ascertain age, and is non-compliant with CEDAW. Consent is available as a defence for rape and indecent assault but not for defilement or indecent assault on a girl under 15. This means in effect that the defence is available in relation to sexual assaults including rape on girls over 15 and this is non-compliant with CEDAW which stipulates 18 as the age of adulthood.

7. Minimum sentences and mandatory prosecution ensure that sexual violence against women is treated seriously. Kiribati, however, does not have mandatory prosecution or minimum sentences for sexual assault offences. In addition, the legislation specifically provides for customary law to affect criminal sentencing which may reduce a sentence further if there has been forgiveness. Bail, which should not be granted if there is any risk to a sexual assault victim, is available as a matter of entitlement unless the charge is murder.

8. Although General Recommendation 19 (which concerns violence against women) identifies domestic violence as a form of discrimination that inhibits women's ability to enjoy rights and freedoms on a basis of equality with men, Kiribati has not yet incorporated domestic violence offences into its criminal laws. This is required for compliance with CEDAW.

9. Infanticide refers to the killing of a child by its mother (in contrast to abortion which refers to the destruction of a foetus). Full compliance with CEDAW requires that an offence of infanticide replaces a charge of murder or manslaughter and has a reduced sentence recognising the societal pressures that lead women to kill their children. Women who do so should not be held accountable to charges of murder or manslaughter. An offence of infanticide is contained in the Kiribati criminal law legislation but it reduces a charge of murder to manslaughter, rather than replacing both murder and manslaughter with a separate offence and a corresponding less severe penalty. Further, the definition of infanticide is restricted to the effects of lactation and birthing. Such a view of the causes of infanticide has been largely discredited by research, which instead has linked such killings to post-natal depression caused in large part, by the social pressures of raising children.

10. Article 4 requires that special measures provisions be introduced into national constitutions and legislation. Kiribati has not incorporated special measures provisions into its constitution, nor enacted legislation for the advancement of women. The lack of special measures is detrimental for women because they are an equality measure with

real potential to redress historical discrimination and achieve substantive equality for women.

11. Article 5 requires States Parties to abolish or modify customary practices that discriminate against women. In Kiribati, the Constitution gives constitutional status to customary law. Legislation has also been introduced permitting the observance of customary law in a range of situations including criminal law, family law and land law, all of which have gendered impacts on women. The status given to customary law coupled with the absence of anti-discrimination provisions and other protective provisions in the Constitution leaves women in Kiribati with no legal recourse against custom that discriminates against them on the basis of sex/gender.

12. Article 6 requires States Parties to suppress all forms of trafficking in women and the exploitation of women in prostitution and Articles 2 and 11 require the elimination of discrimination against women in employment. Cumulatively, these articles mandate both the protection of sex workers from exploitation whilst also affording them the rights and protections of other workers. The act of soliciting is not an offence in Kiribati for female sex workers, (although it is for males) which complies with CEDAW. However, Kiribati criminalises the aiding and abetting of sex work and the operation of organised premises. Experience and research shows that organised premises rather than street work is safer for sex workers. Legalising brothels and implementing work conditions and safeguards that are present in other workplaces (such as regulated standards of occupational safety, standard rates of pay, parental leave, sick leave) would therefore provide greater safety for sex workers and the community. Although Kiribati has adopted a rigorous approach to the exploitation of girls under 13 with a penalty of life imprisonment, its approach to girls over 13 and women who have been forced into sex work without their consent or trafficked to other locations, both within the country or abroad, attracts a penalty of only 2 years and is insufficient to comply with CEDAW's mandate.

13. Article 7 obligates States Parties to take all appropriate measures to eliminate discrimination in women's political and public lives. Universal suffrage and equal legal rights to political representation for women has been achieved in Kiribati. However, Kiribati which currently only has 3 female members of parliament out of a total of 42 seats, has not introduced special measures such as quotas to ensure higher numbers of women enter parliament and participate in the governance of their countries.

14. Article 8 requires States Parties to ensure that women have equal opportunities to represent their governments at the international level. Although there is no legal barrier preventing women from representing their governments in Kiribati, the low numbers of women who do so necessitates the introduction of quotas to raise participation.

15. Article 9 requires States Parties to eliminate discrimination in the areas of nationality, citizenship and domicile. Discriminatory provisions exist in Kiribati's nationality and citizenship laws. For example, if a Kiribati woman renounces her citizenship after marriage to a non-national (in order to gain citizenship of her husband's country) she can only regain her citizenship in Kiribati upon evidence of the breakdown of her marriage. Although this is intended to protect women and enable their return to Kiribati if the marriage relationship ends, it makes a woman's return contingent on her marriage rather than her own autonomy and choice. The provision does not apply to men, presumably based on the stereotyped assumption that men will not join their non-national wives in another country. Further, a male applicant for citizenship in Kiribati may request that his wife and child also be granted citizenship. There is, however, no corresponding provision that allows a woman to request citizenship of her husband and child in her application and women are therefore, again discriminated against by existing citizenship laws. Although women have equal rights to

obtain a passport upon citizenship, they are discriminated against if they marry a non Kiribati citizen as they are not permitted to include their husbands or their children in their passports. Kiribati men, however, who marry non- Kiribati women can include their wives and children in their passports.

16. Article 10 obligates States Parties to ensure women have equal rights and opportunities in education. The provision of compulsory education is essential to ensure girls are equally prioritised and not discriminated against in early education. Kiribati has introduced compulsory schooling at both the primary and secondary levels. However, since females do not participate equally in tertiary education in Kiribati, full compliance with Article 10 requires the government to adopt special measures for the advancement of women in education which it has not yet done. A prohibition on the expulsion of pregnant students which is required for compliance with CEDAW so as to ensure that girls are not discriminated against by educational institutions due to their pregnant status, does not exist, in non-compliance with CEDAW.

17. Article 11 obligates States Parties to eliminate discrimination in employment. Women in Kiribati have many of the same rights in employment as men. However, there are a number of aspects of employment law in Kiribati which discriminate against women and do not comply with CEDAW, including the absence of anti-discrimination provisions in the employment legislation and the restriction of women's employment choices by banning them from night work and working in mines. Such protectionist provisions interfere with women's autonomy and place unreasonable restrictions on their right to choose professions and employment.

18. In the area of maternity leave, the public service sector in Kiribati offers more generous allowances than the minimum standards granted in the private sector. Although neither sector fully meets the standards of 14 weeks paid maternity leave recommended by CEDAW and the International Labour Organisation (the ILO recommends a period of 14 weeks maternity leave and CEDAW recommends that this period be paid) the public service comes close with female civil servants entitled to 12 weeks of maternity leave on full pay, but only for their first 2 children. The private sector, however, only provides for 12 weeks leave on not less than 25% of the female worker's wage. Finally, protection from dismissal ends upon the expiry of the approved maternity leave period, leaving women in precarious positions in relation to job security if they require (or choose) to take further leave.

19. Whilst the legislation creates a general duty on employers to provide 'safe' working conditions, Kiribati has not introduced any specific health protection for pregnant workers. Breastfeeding mothers are provided with breaks of half an hour duration twice daily. However, these conditions are insufficient to enable breastfeeding mothers to balance the needs of young children with the demands of work. Similarly, the absence of any state or employer funded childcare facilities in Kiribati is likely to accentuate the difficulties nursing mothers face in the workplace.

20. The CEDAW Committee in General Recommendations 12 and 19 has identified sexual harassment in the workplace as a form of discrimination against women. General Recommendation 19 defines sexual harassment as unwelcome sexually determined behaviour such as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands whether by words or actions. Such actions can be humiliating for the recipient and are discriminatory when they create a hostile work environment. Protection from sexual harassment is absent in Kiribati and there is no scope for a remedy under the criminal code as permitted in the Solomon Islands; or in human rights legislation as available in Fiji; or in public sector legislation as provided in Papua New Guinea.

21. Article 12 requires States Parties to ensure that women have access to health care services including those related to family planning. Abortion is criminalised in Kiribati with a severe penalty of life imprisonment and although abortion can be lawfully carried out to save a mother's life, women do not have access to safe abortion facilities as of right. The failure to decriminalise abortion and to provide safe accessible facilities for women who require abortions endangers their health and that of any child born subsequent to a failed abortion since research indicates that when a mother dies (including as a result of unsafe abortion) the chance of survival of all surviving children under 5 is significantly reduced.

22. Article 13(b) of CEDAW provides that women should be afforded equal rights to bank loans, mortgages and other forms of financial credit free from discrimination. Although there is no legislative barrier to women in Kiribati from accessing such services, discrimination continues to hinder women from obtaining credit and loans to purchase property or businesses, thus interfering with their autonomy and ability to earn a livelihood. Article 13(c) of CEDAW requires that women have an equal right to participate in recreational activities, sports and all aspects of cultural life and there are no legislative barriers in Kiribati preventing women from doing so.

23. Article 14 obligates States Parties to put in place measures to ensure the equality of rural women. Rural women often play a significant role in the economic survival of their families and communities although they are frequently disadvantaged in areas such as land ownership, health, education and housing to name a few. The achievement of substantive equality for rural women and compliance with CEDAW requires temporary special measures provisions to be incorporated into both the Constitution and legislation. Kiribati, however, has not yet done so.

24. Article 15 requires States Parties to guarantee women equality before the law and equal rights to participate in all aspects of civil life. Kiribati expressly guarantees women equality before the law and there are no legal barriers to women's participation in court and tribunal processes, nor are women denied the right to conclude contracts and administer property.

25. Article 16 obligates States Parties to remove discrimination in family and personal laws including marriage, separation, divorce, maintenance, child custody, property division, paternity and inheritance.

26. The CEDAW Committee in General Recommendation 21 has nominated 18 as the minimum age of marriage for both males and females. Kiribati is in full compliance with CEDAW as it mandates an equal marriageable age for males and females of 18, it requires the registration of all marriages and it also requires the consent of both parents in the marriage of minors. However, whilst bigamy is a criminal offence, this law is not applicable to a customary marriage which is not deemed a valid previous marriage.

27. Fault based divorces, which require proof of a matrimonial offence such as desertion or habitual rape, place women in the difficult position of having to provide evidence of situations that may be humiliating, embarrassing, or that may interfere with their dignity and privacy. Women also face discrimination in proving fault, particularly cruelty and adultery if they choose not to be witnesses or they do not wish to attend court proceedings. Divorce in Kiribati is based on fault based criteria (including adultery, desertion and cruelty) and is therefore not compliant with CEDAW.

28. The CEDAW Committee in General Recommendation 19(23) (which deals with violence against women, in relation to Articles 16 and 5 of CEDAW) states that a lack of economic independence or an inability to gain custody of their children upon separation forces many women to stay in violent or difficult relationships. Kiribati does provide for

maintenance orders during separation and after divorce for both children and spouses. Further, Kiribati legislation provides for maintenance for 'any person' and therefore potentially includes both women in de facto heterosexual relationships, and women in same-sex relationships, although to date no such same-sex recognition has occurred. Further, the children of unmarried women are specifically and separately provided for in the Land Code with discretionary criteria. However, the basis on which maintenance is provided is left largely to the discretion of the court with the broad criteria of 'the age of the person for whose benefit the application is made and the personal circumstances of every person'. The standards recommended by CEDAW, i.e., the needs and means of both parties, the financial commitments of both parties to themselves and others, their respective capacities to earn and the needs of any children for whom maintenance is sought, are unlikely to be prioritised.

29. In General Recommendation 21, which deals with equality in family relations, the CEDAW Committee states that the division of marital property should include recognition of nonfinancial contributions during a marriage such as raising children, caring for elderly relatives, and discharging household duties. However, Kiribati provides no legislative provision for the division of property after separation and divorce and therefore any determination is left to custom which may discriminate against women.

30. The best interests of the child as the paramount consideration is universally accepted as the principle on which custody determinations should be based, according to Article 16(f) of CEDAW. Although Kiribati has adopted the recommended standard of the best interests of the child as the paramount consideration in custody disputes after separation and divorce, an unmarried mother automatically loses custody of her child at the age of two years to the father (provided he admits paternity and wishes to have the custody of the child). The latter situation although intended to protect the inheritance rights of the children of unmarried parents may not represent the best interests of the child, and discriminates against mothers.

31. In General Recommendation 21, the CEDAW Committee states that the right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence. Women in Kiribati do not enjoy equality in relation to the ownership, administration, enjoyment and disposition of property since patrilineal inheritance is given legislative status thereby giving men control of many aspects of land and property.

32. Article 16 requires that inheritance laws should apply equally to males and females. The Gilbert and Phoenix Islands Land Code governs inheritance law, specifying different rules for different islands based on custom. Generally, succession is along patrilineal lines and in a number of instances, sons are favoured over daughters in relation to both land and important resource rights such as fishponds.

**NOTE:** *The document referenced above provides a series of tables detailing Kiribati's compliance with CEDAW on the pages following this excerpt. Each table relates to an article of CEDAW and contains the applicable indicator(s), the level of compliance achieved, the relevant legislation and finally where required, a brief commentary explaining how Kiribati's legislation does or does not meet the indicator. This document was published in 2007 so some of the information may have changed, however it still provides an excellent benchmark on Kiribati's compliance with international norms and standards of gender equality and women's human rights.*

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