

## **COMMITTEE ON THE RIGHTS OF THE CHILD**

43<sup>rd</sup> session (Geneva 11 September – 29 September 2006)

### **Kiribati (Initial Report)**

#### **Information Submitted to the Committee**

On 22 August 2005, Kiribati submitted its initial report due in 1998 in part-fulfilment of its obligations under the Convention on the Rights of the Child (the Convention).<sup>1</sup> The Committee on the Rights of the Child (the Committee) presented a list of issues<sup>2</sup> to the State party, which were replied to in writing on 23 August 2006<sup>3</sup>. The report was in line with the Committee's reporting guidelines. The first part of the report described all measures and legislation in place to ensure the implementation of the Convention. The second part focused on implementation of the Convention on an article-by-article basis. The report also included references to the cultural particularities of Kiribati that obstruct the full implementation of the Convention. There was no mention of participation by a third party in the writing of the report. In its concluding observations<sup>4</sup>, the Committee recommended that the State involve civil society and NGOs in issues relating to the rights of the child.

Two parallel reports were submitted by NGOs. One was from Child Helpline International, referring to the setting up of a toll-free phone line for children to use to make complaints. The second report was from the Global Initiative to End All Corporal Punishment of Children.<sup>5</sup>

Kiribati has made reservations to Articles 24 (b-f), 26, and 28 (b-d) of the Convention. Article 24 calls on the State to recognize the right of the child to the highest attainable standard of health, and calls on the State to ensure that the child is not deprived of these rights. Furthermore, it provides that the State must work to pursue the full implementation of this right. Kiribati holds reservations against the provision of health care, and restricts its obligations to "diminishing infant and child mortality" (Article 24a). Regarding Article 26, Kiribati does not consider the provision of social security by the government to be an obligation.

Article 28 refers to the provision of free education services by the government. Kiribati has reservations to the Convention's clauses for secondary and tertiary education, as well as for vocational school. However, the Committee agrees to make primary education free and available to all. The Committee asked if Kiribati planned on removing these reservations, but the delegation responded that the new government had not considered doing so. Kiribati has not ratified either of the two Optional Protocols of the Convention. The Committee expressed its regret for this position and recommended that the State take the necessary steps to remove these reservations.

#### **Themes and Issues**

The Committee was pleased with Kiribati's high-level and multidisciplinary delegation.<sup>6</sup> The discussion was very dynamic, with the Chairman regularly interrupting the State delegation in order

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<sup>1</sup> CRC/C/KIR/1, 7 December 2005, available at <http://www.ohchr.org/english/bodies/crc/crcs43.htm>.

<sup>2</sup> CRC/C/KIR/Q/1, 22 June 2006.

<sup>3</sup> CRC/C/KIR/Q/1/Add.1, 24 August 2006.

<sup>4</sup> CRC/C/KIR/CO/1, 29 September 2006 (unedited version).

<sup>5</sup> NGO reports are available on the Child Rights Information Network at <http://www.crin.org/docs/resources/treaties/crc.25/annex-vi-crin.asp>.

<sup>6</sup> The delegation was comprised of the Secretary for the Ministry of Internal and Social Affairs, the Director of Public Health of the Ministry of Health and Medical Services, the Solicitor General of the Attorney General's Office, the spouse of the Secretary for Internal and Social Affairs, and the Education Officer (Primary) of the Ministry of Education, Youth, and Sport.

for Committee members to provide updates or clarifications to their questions. In his preliminary conclusions, the Rapporteur for Kiribati, Mr Jean Zermatten, praised the dialogue as extremely open and rich. Culture and tradition were a theme that greatly influenced all topics discussed. The Rapporteur highlighted Kiribati's transition from customary to common law and the general shift Kiribati was undergoing from a traditional form of society to a modern one. Also, the geographical distribution of the islands which constitute Kiribati made implementation of the Convention quite difficult. However, the main concerns and questions posed by the Committee referred to the implementation of the Convention, education, health, juvenile justice, and the possibilities for children's voices to be heard.

### ***Challenges to implementation***

In his opening statement, the country Rapporteur identified three factors affecting Kiribati's implementation of the Convention. These factors were echoed throughout the interactive dialogue. Primarily, Kiribati is a country consisting of many small islands. According to the State delegation, going from the capital city to the furthest island would take two weeks by boat. This underlined a major issue in the implementation of the Convention, as geography means that many communities are completely isolated from government interaction.

Secondly, the Convention requires a significant degree of centralisation of public and social services. Traditionally, Kiribati made little use of the centralised government, delegating numerous responsibilities and most social services to the system of 'extended families' or to local NGOs. A general concern was that although many social services are traditionally carried out by the 'extended family' system, increased urbanisation and migration across the islands has led to many people being detached from their 'extended family', thereby losing social benefits.

Finally, as a 'least developed country', it was clear that financial limitations were an overwhelming factor affecting the implementation of the Convention in Kiribati.

Although the Committee's questions and comments did suggest the centralisation of services, members were still mindful of these three problems and approached the discussion with them in mind. In its concluding observations, the Committee re-acknowledged the difficulties faced in implementing the Convention, keeping in mind that the State was aware of these and was working to resolve the situation.

### ***Status of the Convention in domestic law***

The Committee inquired about the status of the Convention in Kiribati and the measures undertaken to ensure it was incorporated into domestic law. The delegation explained that even though it ratified the Convention, it does not automatically become incorporated into domestic law. At the moment, domestic law takes precedence over international law. However, if there is ambiguity in the law, courts can consider Kiribati's international obligations in order to resolve the matter. In the meantime, the delegation explained that it was undergoing a comprehensive review of their legislation together with the United Nations Children Fund (UNICEF). The Committee praised the creation of a 'National Committee for Children' and the "Kiribati National Advisory Committee on Children", both aimed at dealing with children's rights and Kiribati's obligations under the Convention, as good first steps. However, it urged the State to work towards further implementation and to work actively towards publicising the Convention. Furthermore, the Committee recommended that the State establish an independent monitoring mechanism to ensure the proper implementation of the Convention. Finally, the Committee recommended that the State make procedures relating to the Convention as transparent as possible, so as to keep the population informed.

## ***Definition of the child***

The Committee expressed concern that Kiribati was lacking a clear definition of the child. The Committee pointed out that there was no legal definition and therefore no concrete status of the child in Kiribati society. This affected children in every sphere of society. The Committee recommended that the State institutionalise the legal status of the child. Also, in finding a definition, it was proposed that Kiribati work on including children in the decision making process. The delegation responded positively to the need for change in Kiribati, but also appeared resigned to the fact that tradition would remain an inhibitor to change.

## ***Education***

The Committee inquired about the budget allocated to education. While the delegation did show that a large percentage of the State budget was being allocated towards education, it also stated that Kiribati was experiencing severe difficulties because of lack of resources. Particularly, they pinpointed the lack of school facilities as a growing concern. Also, because of the dispersed nature of Kiribati's population, many schools were community schools run by 'elders'. While the Committee recognised the difficulties involved, it nonetheless deplored the lack of communication between communities and the government in terms of education. Concern was also raised at the fact that the secondary school system in some parts of the country is run by the Church.

The Committee, however, was pleased to hear that primary education is free. In terms of dealing with the distance and perhaps creating a more centralised form of education, the Committee inquired about the possibility of setting up e-learning centres. There was some concern that unregistered children could not have access to education, but the Committee was pleased to hear about the measures in place to insure that children were registered. The Committee made a general recommendation that the State increase funding as well as efforts to improve availability of education and vocational programs for children.

The Committee also expressed concern at the opportunities available for children after they finish school. Indeed, the delegation adopted a position that not all children could be expected to go to university and because of that, children should be encouraged to go to vocational schools. While this may reflect the reality of the situation, the Committee expressed concern that this might restrict the freedom of choice of children to choose their profession.

Finally, the Committee inquired about the measures in place to deal with disabled children in school. The delegation responded that although it did not have specialised institutions, it had trained teachers to deal with disabled children in order to facilitate their inclusion into the regular school system. The delegation did concede that teachers were not trained to deal with severely disabled children. The Committee concluded that the resources available to disabled children were insufficient, and urged the State to adopt measures to provide equal education in accordance with its General Discussion on the rights of children with disabilities<sup>7</sup>.

## ***Health***

Despite the lack of centralised social services, the Committee noticed an improvement in the provision of health care for children. However, the Committee expressed concern that the level of infant mortality was still very high and that the State party still had a reservation to the provision regarding health care (Article 24). Furthermore, the distribution and types of illnesses indicated that

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<sup>7</sup> CRC/C/69

deaths were primarily from preventable causes. Accordingly, the Committee inquired about the accessibility of medicines and safe drinking water to poorer parts of the country. The delegation responded that they had numerous local doctors, and that they had also received the help of Cuban doctors, who had also been training local villagers in health matters. Furthermore, the delegation mentioned that the government was working with traditional healers to determine the possibilities for cooperation.

In terms of sexual health, the Committee inquired about the presence of sexual health education in schools. The delegation responded that there was sexual health education, and that children were being taught about the risks of sexually transmitted diseases. While the Committee appreciated this, it still expressed concern that abortion was illegal in all cases except when the mother's life was at risk. Furthermore, the Committee expressed concern that very few cases of HIV infection had been reported, and that this probably did not reflect reality. The Committee recommended that the delegation address the taboo concerning HIV infection.

In its concluding observations, the Committee recommended that the State strengthen its efforts to provide health services, but also called on the State to pay particular attention to problems such as illicit drugs and sexually transmitted diseases as issues of special concern towards children.

### ***Juvenile justice***

The Committee expressed serious concern that children are not treated very differently from adults in the Kiribati judicial system. The delegation did admit to not having a distinct judicial system for minors. Furthermore, a child from the age of 16 could be sentenced like an adult, including life imprisonment in the case of murder. The Committee was also shocked to hear that a child could be put in prison with adults if they were convicted of a very serious crime (e.g. murder). The delegation stated however that there were no minors in prison.

Linked to the issue of juvenile justice was the issue of corporal punishment. One Committee member pointed out that corporal punishment could be used as a form of legal punishment, and that children convicted of crimes could be sentenced to lashes with a cane. Although the delegation stated that this never happened in practice, the Committee expressed serious concern at the fact that this remained a permitted form of punishment, and recommended that laws be amended to ensure its prohibition, both in the juvenile justice system and in the home.

On a general note, the Committee asked if justice officials received training to deal with children. The delegation stated that programs were underway with specialised institutions, but that this was still only beginning. The Committee recommended that the State take the steps necessary to adopt a system of juvenile justice in accordance with the State's obligations under the Convention. In addition to this, they also recommended setting up an independent body such as an ombudsman to monitor the juvenile justice system.

### ***Child Participation***

A central concern to several members of the Committee was having the voices of children heard, particularly after the delegation stated that in traditional Kiribati culture children do not have a voice. The delegation stated that there were no institutions in place for children's voices to be heard, and that if a child was victim of abuse, their only recourse was the 'extended family'. However, the delegation did accept that the culture needed to evolve. Nevertheless, this prompted several members of the Committee to inquire about the possibility of a hotline. While delegation members were not opposed to the idea of a hotline, they stressed that the nature of Kiribati's geography would make such a hotline too expensive. Furthermore, some islands have only one

phone line, which would raise privacy issues. In response, Committee members inquired about the possibility of an electronic complaint mechanism such as the Internet. This, however, would also bring with the problems of cost and availability of phone connections. In its concluding observations, the Committee made a general recommendation for the State to work towards improving societal perceptions about the importance of the child's right to be heard.

### **Other Issues**

The Committee expressed concern that children have no **way of recourse when they are abused**. Without a hotline, children are expected to report violations of their rights to the extended family system. However, this clashes with the right to privacy of the child, and does not take into consideration the possibility that a family member may abuse the child. In connection with the issue of abuse, the Committee expressed particular concern for girls. It criticised the taboo concerning the rape of girls and also expressed their fear that nothing was being done to address the problem of sex trafficking, made prevalent by the fishing and trading community that brought short-stay foreigners to the country. The Committee recommended that the delegation address these issues in terms of prevention as well as measures to report and prosecute cases of abuse.

The Committee expressed concern about the Kiribati method of informal adoption, by which the child is taken care of by a member of the extended family. In this way, the child can obtain several different parents who all take care of the child. The Committee stated that the best interest of the child might not be taken into consideration, as there is no regulation enforcing the 'adopting' relative's obligation to take care of the child. The Committee urged the State to institutionalise and regulate adoptions as well as ratify the Hague Convention on Adoption.

### **Conclusions and recommendations**

The Country Rapporteur described the dialogue as extremely open and rich, and expressed his appreciation for this first encounter with Kiribati. He thanked the delegation for its self-criticism and once again recognised the difficulties that Kiribati had in implementing the Convention, but also praised the delegation for its progress. However, he emphasised that much also remains to be done, particularly in the provision of health care and education. In this respect, he proposed that Kiribati seriously consider new communication technologies, which would allow more interaction with secluded parts of the country. Generally speaking, both the Committee and the delegation recognised that Kiribati still had to move towards a more modern form of society, which would be more open and suited to the implementation of the Convention.

In their conclusions, the Committee paid special attention to recommending that children have more opportunities to participate in the decision making process, particularly with regards to sexual exploitation. There was also a general call for more statistics, which the Committee stated would help both the State and the Committee in determining the situation of children in Kiribati.

The Committee requested the State to submit a joint second, third, and fourth report by 9 July 2011.