Child protection case study

FROM REVIEW TO REFORM

HOW GROUND-BREAKING LEGISLATION IS PROMOTING CHILD PROTECTION IN KIRIBATI
In 2012 Kiribati passed a historic law aimed at strengthening the capacity of agencies and individuals to protect and advocate for the rights of children and young people in Kiribati. The Children, Young People and Family Welfare Act (2012) is the first law of its kind that establishes a strong legal foundation for the protection of children and young people. Prior to this law, there was no legally mandated social welfare system to support children and young people at risk or subjected to violence, abuse, neglect and exploitation. The legislative review, drafting of the Bill and introduction of this law occurred in record time, a testament to the immense political and community will to protect the children and young people of Kiribati. This case study maps the development of this important legislation, commencing in 1996 with the signing of the Convention of the Rights of the Child (CRC) by the Government of Kiribati and outlines proposed necessary steps to translate this law into practical actions on the ground.

The Children, Young People and Family Welfare Act (CYPFW) (2012) provides a legal foundation for a comprehensive child protection system in Kiribati. The law establishes, for the first time, the basic principles of a child protection framework, and presents structures, processes and systems through which those relations can be undertaken. It is widely believed that the introduction of the new law heralded a new era for child protection in Kiribati. A legislative structure presents substantial potential to explore existing opportunities to align and strengthen the work of the key agencies involved in providing services and support to protect children and young people.

The passing of this legislation reflects the longstanding commitment of the Government of Kiribati to support and advocate for the welfare of children. The Government of Kiribati first signalled its intention to support children’s rights by signing the Convention of the Rights of the Child (CRC) in 1996. The CRC is the key international law specifically related to the rights of children. The CRC promotes rights within four broad principles – protection, survival, participation and development. A key obligation as a party to the CRC is ensuring that national legislation supports the key principles enlisted within the Convention.

A baseline study undertaken in 2008 of Kiribati’s child protection structures and services highlighted numerous gaps, particularly in the area of existing legislative framework and supporting services. Jointly supported by the Government of Kiribati and UNICEF, “Protect Me with Love and Care”, reviewed the laws of Kiribati, services available and involvement of communities in child protection issues. This report proposed a number of recommendations to strengthen child protection legislation, policy and programmes in Kiribati. In 2010, following this study and subsequent recommendations, the Government of Kiribati embarked on large-scale consultation programme to support the development of a draft Bill. Undertaken through the Attorney General’s office, key stakeholders were engaged in this important initiative from the outset, including the Kiribati Police Service, Judiciary (High Court), magistrates, Island Councils and communities. In 2012, the draft Bill was considered by Parliament and passed at the first sitting.

### Timeline of child protection framework in Kiribati

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tr>
<td>1996</td>
<td>CRC signed by the Government of Kiribati</td>
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<tr>
<td>1996</td>
<td>Kiribati National Advisory Committee on Children (KNACC) established</td>
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<td>2005</td>
<td>Initial report submitted to the Committee on the Rights of the Child</td>
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<td>2006</td>
<td>Committee recommends through its Concluding Observation that legislation is required in order to implement the CRC</td>
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<tr>
<td>2010</td>
<td>“Protect Me with Love and Care” baseline study (2009) produced by UNICEF and AusAID, released</td>
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<td>2010</td>
<td>Child Protection Legislative Reform Project commences – develop and draft Child Protection Laws</td>
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<td>2010</td>
<td>Establishment of the Child Protection Working Group to oversee Reform Project</td>
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<tr>
<td>2013</td>
<td>Children, Young People and Family Welfare Act (2013) comes into force</td>
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Several success factors contributed to the review, development and passing of the legislation in Kiribati:

### Establishing key partnerships to support legislative reform

A key success factor in the legislative reform was building on strong partnerships across political, economic and social sectors. The community consultation process built on many years of work in developing child protection systems and the consultation infrastructure was largely in place due to these previous non-legislative initiatives. This was particularly the case for the Judiciary and the Kiribati Police Service which have received ongoing support through UNICEF, the Australian Government and other development partners to strengthen capacity and programmes in communities. Additionally, Kiribati has a strong cultural commitment to consensus building in communities, which was instrumental to ensuring that community views were widely sourced. This included travelling to most outer islands, and working directly with Island Councils to coordinate and facilitate community discussions regarding the draft Bill. At the executive level, members of Parliament were engaged early in the reform process, receiving regular briefings and consultations prior to the Bill being passed. A series of community-based consultations raised awareness about the need for the reform process, as well as creating demand for increased child protection measures.

### Coordination mechanism

Coordination and facilitation of the legislative review was undertaken by the Child Protection Working Group. Established at the outset of the review process, this group consisted of representatives from government, civil society and development partners. Consultants were contracted to provide technical advice to line ministries in the development of draft legislation. The Ministry of Women, Youth and Social Affairs (MWYSA), took a key role in coordinating the review process including consultations in the outer islands.

The Child Protection Working Group was established under the Kiribati National Advisory Council on Children (KNACC). The KNACC was established by the Government of Kiribati after the signing of the CRC. This group of representatives from key ministries, donor partners and organizations acts as the overarching coordination body in Kiribati in relation to children’s rights. Since the law came into place, its implementation is monitored by an executive working group comprised of Deputy Secretaries (and technical staff) of member Ministries. This group is a key part of the government’s central planning, budgeting and reporting system against the Kiribati Development Plan (KDP) 2012-2015, and the first national planning instrument to include goals specifically focussed on promoting child protection. The group meets monthly to review progress against annual and multi-annual strategic plans. This body is also important to ensure that Kiribati child protection priorities (presented through the new law) are aligned with funding and support guidelines of development partners.

### Widespread consultation

The detailed consultation process, with a strong focus on the outer islands, was critical to the reform’s success. As indicated by the Child Protection Officer of MWYSA, Teurakai Ukenio, “One of the reasons [the review] was so successful was community consultation and a sense of ownership. The process respected cultural values.” Eighteen outer islands were given the opportunity to review the draft Bill, with a highly participatory consultation process that allowed the most marginalized groups the opportunity to learn about and comment on the draft Bill. This process also provided the opportunity to the MWYSA to tap into community engagement to raise awareness about child protection issues.

### Incorporating child protection into national planning and financial strategies

The Government of Kiribati has demonstrated its commitment to child protection reform through incorporating child protection into its national planning framework, the Kiribati Development Plan, and also including it into national fiscal management strategies.

### Support for developing implementation plan and materials

The government moved quickly to develop several additional documents to support the implementation of the CYPFW Act and gradual “mobilization” of a new child protection system. Documents included: CYPFW system policy, human resource strategy, costing plan for the strategy and implementation plan.

### Non-legal efforts to support legislation

Since the legislation came into force in 2013, there have been numerous non-legal efforts to strengthen awareness of the law and its significance to efforts to increase child protection initiatives. The Act was passed with a Policy Paper, a guiding framework developed for government representatives and organizations working in the area of child protection. Following the introduction of the legislation in 2013, MWYSA developed an implementation manual to support social workers and key agencies increase their understanding of the legislation and how it relates to their work. Training has been undertaken with magistrates in the outer islands as well as members of the Judiciary in South Tarawa. The Kiribati police force has conducted numerous training initiatives with communities regarding the new law and what it means for community policing. This initiative aims to divert first-time young offenders into community service, rather than into the formal justice system. It is estimated that this initiative has diverted 70 per cent of juvenile offenders away from the courts.
Defining a ‘child’ and ‘young person’ in Kiribati

The CRC recognizes a ‘child’ as a person under 18 years of age. (The legislation in Kiribati recognizes a ‘child’ up to 14 years or age, and a ‘young person’ between 14 years and 18 years of age.) Whilst partly covered in existing laws (such as the Penal Code of Kiribati), the new legislation focuses on service provision that is not covered by existing legislation. The new legislation provides Social Welfare Officers under the MWYSA with the legal mandate to carry out their roles.

Community attitudes

Emerging from the consultation process is the common community sentiment that traditional family dynamics are changing in Kiribati. The steadfast adage that “children should be seen and not heard” is now challenged through growing community awareness and understanding about the value and rights of children in society. Corporal punishment is widely practised in homes (and still in some schools) as a form of discipline with 72 per cent of adults surveyed during for the “Protect Me with Love and Care” study admitting to physically hurting children in their care. While this practice may still be common in some areas, there is anecdotal evidence to suggest that parents are transitioning from a stage where physically disciplining children was the norm, to a phase of greater awareness about the importance of exploring alternative options such as positive discipline. It appears that individual values and perceptions around child protection are changing and moving towards collective caring for the welfare of children in the community. “There is a big shift in community perceptions around child protection, in the start, people took care of their own children, and now they look after other children,” MWYSA Child Protection Officer. Since the introduction of the CYPFW Act rates of reporting of child abuse have increased by 33 per cent at the end of 2014, demonstrating an increased community understanding of the law and wider acceptance of the need to protect children.
CHALLENGES, LESSONS AND SUGGESTIONS

It is widely agreed that legislation provides the legal foundation on which to build institutional and societal systems and support. The following areas of interest are highlighted as priorities for ongoing work in the near future.

The need for increased awareness
While the law is now in place, ongoing awareness programmes are helpful for those involved, including parents and caregivers, those in judiciary, ministry and policing positions, and at the community level. Whilst community attitudes are starting to change, there is still some way to go before there is a widespread understanding of the service structure defined in the legislation, particularly in the outer islands. Initial training has been undertaken by Social Welfare Officers, who travelled to the outer islands and spoke with the island councils about the new laws and policy. At the ministry level, an Implementation Manual has been developed to build the awareness and capacity of ministry staff. A draft community facilitation package is being developed and scheduled for completion in 2015.

Increased coordination and alignment with national planning processes and resourcing strategies
Clarifying roles and responsibilities in relation to coordination needs further strengthening. This includes closer coordination with the justice sector, building on previously non-legislative policies such as court diversion and community-based policing programmes.

Whist child protection is integrated into the Kiribati Development Plan actions are required across key ministries to integrate child protection principles into ministry plans. This includes developing a Child Protection Policy in schools (through the Ministry of Education), and working with the Ministry of Health to strengthen awareness of nursing staff of procedures for referrals and other related incidences.

Development of an overarching Monitoring and Evaluation System
Closer alignment with the Kiribati Development Plan also requires that child protection objectives are assessed. A comprehensive results-based monitoring framework needs to be established by the MWYSA aligned to its annual work plans. This is addressed in the Implementation Manual developed by MWYSA (Chapter 4).

NEXT STEPS

UNICEF continues to work with the Government of Kiribati and the Attorney General’s office to strengthen institutional and individual capacity to support greater awareness of the legislation. Key to success in child protection will be greater collaboration and coordination between government departments including social welfare, justice, and education and health sectors. In terms of legal and regulatory reforms, focus in Kiribati is the implementation and enforcement of the Act including continuing to strengthen a national coordination mechanism across a range of agencies working in the area of child protection, and continued training and awareness raising of the new law and its relevance to children’s welfare. Alignment of these services with the new Family Protection Act, which addresses domestic violence, is also being undertaken. This includes developing relevant policies and supporting their integration into particular line Ministries (such as Education and Health). Equally important is promoting the laws to stakeholders and the general public, training of magistrates and institutional strengthening of the Ministries relevant to the law.

The following initiatives are key priorities:

• Develop a national plan to facilitate implementation of the new CYPFW Act through the finalization of the Implementation Manual.

• New protocols, procedures and referral system drafted and endorsed (using the existing manual as a protocol), and training for key service providers and communities (with a focus on outer islands).

• Strengthen data collection, storage and retrieval through an integrated information management system. Strengthen capacity of MWYSA to manage information as mandated by the CYPFW.

• Incorporate elements of the CYPFW into Island Councils Development Plans

• Continue to work closely with the Kiribati Police Service in training on operational procedures, which includes raising awareness about new law and relevant non-legal initiatives such as the diversion. Focus on ensuring implementation and enforcement of newly amended laws building on positive and local resources and practices.

• Extend training to magistrates and the judiciary.