



Franciscans International
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**World Council
of Churches**

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Joint Stakeholders' Submission on:

The Human Rights Situation in Kiribati

Submitted by:

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**Commission of the Churches on International Affairs (CCIA) of the World Council of
Churches**

(NGOs in Consultative Status with ECOSOC)

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I. Introduction

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to the Human Rights situation in Kiribati focusing on environment and the impact of climate change on full the enjoyment of human rights.

2 The data and information obtained for this submission came from various sources and include information from Franciscans International members and Edmund International Network in the Pacific regions.

3. Franciscans International (FI) is a faith-based International Non-Governmental Organization (INGO) with General Consultative Status with Economic and Social Council of the United Nations. It was founded in 1982 to bring to the UN the concerns of the most vulnerable. Edmund Rice International (ERI) is a faith-based NGO promoting and protecting human rights in over 30 countries. Established in 2007, ERI is primarily concerned with the Rights of the Child, the Universal Right to Education, and Ecological Sustainability. Commission of the Churches on International Affairs (CCIA) of the World Council of Churches (WCC) is a global fellowship of churches whose relationship with one another and activities together are an expression of their common faith in Jesus Christ. It has 349 member churches representing a wide diversity of church traditions in more than 140 countries throughout the world.

II. Background

4. In the first cycle of the UPR in 2010, Kiribati accepted three recommendations related to environment and climate change issues. Kiribati committed to redouble efforts and pursue activities aimed at ensuring respect for environmental legislation; to study the possibility of developing a national environmental charter or a similar instrument to define the role and responsibilities of, as well as the coordination of action by, all relevant parties, including civil society and to actively pursue international cooperation aimed at adapting to the adverse effects of climate change (recommendations 60.81-82);

5. The greatest challenge for The Republic of Kiribati is the effects of climate change. Kiribati is a low-lying pacific island nation composed of 33 islands, 32 of them are atolls and one, Banaba, is a raised coral island, and of which 21 are uninhabited. These islands are atolls, which are low-lying and are mainly made up of coastline, making them especially vulnerable to sea-level rise. As such the effects of climate change, in particular on coastal erosion, agriculture, the economy, water supply and health, are already affecting Kiribati, rendering it one of the first counties in danger of becoming uninhabitable because of climate change.

6. Global warming contributes to the rise in sea-levels in two ways; the melting of ice sheets and glaciers and the resulting expansion of ocean waters. The rise of sea-levels and increase in storm surges makes low-lying Kiribati particularly vulnerable to complete submersion as the I-Kiribati (the people of Kiribati) do not have high ground where they can seek refuge. Instead they remain exposed to sudden inundation and drowning. This issue is compounded by coral bleaching, caused by the warming ocean waters. Corals are marine animals and when temperature or ultraviolet light stresses the corals they lose their symbiotic algae. Without algae the corals can

starve and their vulnerability to disease increases, eventually killing the coral. The loss of coral reefs threatens atoll countries like Kiribati because the reefs act as a protection against the ocean waves and storms. This in turn leads to coastal erosion not just of the beaches but of the land. Coastal erosion and rising sea levels are not merely a future risk but a phenomenon which is already having an impact. Kiribati's main island, Tarawa, is already seeing the affects of this, with people losing both their homes and varieties of vegetation which are relied on for food. Overall, projections by the World Bank suggest that 55 percent of the main Island would be inundated or vulnerable to storm surges by 2015. Furthermore, Kiribati could face climate change induced economic damages of 17-34 percent of gross domestic product.

8. Kiribati has three pieces of environmental legislation. The first was the Environment Act 1999 and the most recent the Environmental Amendment Act 2007. These acts commit Kiribati to pursuing its obligations under the Rio Convention and other International Environment Agreements to which Kiribati is a party. The Government of Kiribati has established climate change institutions, committees and created an adaptation policy as a means of complying with its obligations under the United Nations Framework Convention on Climate Change (UNFCCC).

9. However Kiribati struggles to comply with its international environmental obligations because of its limited in-country capacity and resources. Therefore while their legislation is commendable, it cannot effectively assist Kiribati to fight climate change. This is particularly the case as climate change is not the result of a single state but a global phenomenon. It is developed states which are largely the cause of climate change and as such mere legislation by a single state is not sufficient.

III. Adverse impact of climate change to the full enjoyment of human rights

Impact of Climate Change on the Right to Health

10. The land shortages caused by climate change have exacerbated existing problems. Climate change has aggravated population and health problems in Kiribati, particularly in Tarawa. Population growth on Tarawa is predicted to double in the next 17 years. This population pressure is compounded by the loss of living space due to coastal erosion. As a result, people are squatting in Tarawa's main water lens where freshwater gathers when rain seeps through the ground. This lens is the main source of fresh water for the population and is being contaminated by those living in it, resulting in the real possibility of contamination and the spread of disease such as diarrheal disease. Furthermore, Kiribati has the highest infant-mortality rate in the western pacific, with many babies dying of chronic diarrhea caused by waterborne and faeces-related illnesses. This is prevalent as it is not just the fresh water supplies which are contaminated. Most houses do not have a toilet and therefore many people use the sea or beach, rendering inshore fish too dangerous to eat and swimmers risk disease. While these issues are not directly caused by climate change, it has exacerbated these health problems.

Impact of Climate Change on Right to Food

12. Conversely climate change directly affects Kiribati's agriculture crops in three ways; saltwater intrusion, loss of land due to inundation, and changes in rainfall. Ultimately, the projected loss of land will contribute to the population density and health problems, placing more pressure on the limited land available, thus threatening the local agriculture, which is the main

economic activity. As such Kiribati no longer has food security. Climate change threatens the I-Kiribati's ability to feed themselves, thus impacting their realization of the right to food.

Impact of Climate Change on the Right to Self-Determination

12. However, the most pressing issue that the I-Kiribati faces is the possibility of the complete submersion of their island nation. This is now an outcome that may become a reality. As such it is necessary to determine how to deal with a nation whose land is increasingly uninhabitable. Moreover this raises issues for Kiribati's sovereignty, if their state were to no longer exist, in turn threatening the protection of I-Kiribati's cultural rights. These issues are compounded by the Government of Kiribati's primary strategy to cope with this harsh reality, 'dignified migration'.

13. Recommendations:

While recognizing the ongoing efforts taken by the Government of Kiribati and the limitation of the available resources and bearing in mind the responsibility of the international community toward the I-Kiribati, we make the following recommendations to the Government of Kiribati:

- 1. To ensure the protection of the individual's right to life, in particular through taking measures to reduce infant mortality, malnutrition, and epidemics, and to enforce the rights to health, adequate nutrition, and a healthy and safe environment for all.**
- 2. To ensure the provision of clean drinking water and access to water services and sanitation for all.**
- 3. To actively pursue measures to ensure people live with security, peace and dignity. This requires action to ensure the adequate protection of housing from weather hazards, access to housing away from hazardous zones, and measures to avoid the creation of informal settlements in hazardous areas.**
- 4. To ensure the availability of adequate food and freedom from hunger, even in times of natural disaster.**
- 5. To continue dialogue and pro-active multilateral and bilateral negotiations with other States on the protection of the human rights of the I-Kiribati by ensuring safe havens for I-Kiribati as their islands become uninhabitable.**
- 6. To continue to negotiate for compensation for the damage caused to their islands from those responsible for climate change, according to the principle of common but differentiated responsibility as stipulated in the UNFCCC and the United Nations Guiding Principles on Business and Human Rights.**

IV. Human Rights and Climate Induced Displacement

14. As Kiribati's request for new territory has fallen on deaf ears, most analysts agree migration is the best option. The Government of Kiribati has acknowledged that relocation of its people may be inevitable and as such has adopted a migration with dignity policy.¹ This strategy

¹ Lands and Agriculture Development of the Republic of Kiribati, High Level Segment UNFCCC COP 19th Meeting, Warsaw, Poland 19 – 21 November 2013.

involves two key components. Firstly the government has made efforts to create opportunities to enable migration for those who wish to do so. Through such migration opportunities the government hopes to lift the burden on resources within the country and to establish expatriate communities of I-Kiribati to absorb more migrants in the long term. Secondly Kiribati has raised the levels of qualifications available to match those of surrounding countries such as Australia and New Zealand, in the hopes of making I-Kiribati more qualified and therefore more attractive migrants to surrounding countries, as well as improving local services. However this policy of migration poses its own set of issues.

Limitations

15. The biggest limitation on climate change migration is its lack of recognition in any binding international treaty. A person seeking refuge because of the effects of climate change would not meet the definition of a refugee, which requires an individual to show a well-founded fear of persecution for a particular reason, climate change not being among them. It is also unlikely that they could benefit from complementary protection under human rights law. This is because it is still contentious as to whether return would amount to a risk to life or inhuman or degrading treatment, as many environmental related rights, are not officially recognised as a right.² However, the more debilitated Kiribati becomes the greater chance the I-Kiribati will have in making this a successful claim. Finally, the I-Kiribati's status as a stateless people would also be difficult. To be recognised as a stateless person the legal definition requires the individual not to be considered as a national by any state under the operation of its law. Thus meeting this requirement may require a determination on whether Kiribati is considered to still exist, which poses further difficulties. Moreover statelessness treaties are poorly ratified³ making this a less attractive option for the I-Kiribati.

16. Further highlighting the legal void that is climate change displacement, was the recent rejection of a Kiribati man's climate change refugee application. The New Zealand High Court Judge rejected the claim highlighting both the lack of a legal basis for such a claim and the policy concerns,

"On a broad level, were they to succeed and be adopted in other jurisdictions, at a stroke, millions of people who are facing medium-term economic deprivation, or the immediate consequences of natural disasters or warfare, or indeed presumptive hardships caused by climate change, would be entitled to protection under the Refugee Convention."

It is not just National Court's which are unprepared to accept climate change migration. There have been numerous claims under International law from similar countries such as Tonga and Fiji, none of which have succeeded. Therefore, it appears it may be up to individual State governments to create legislation to make room for climate change migrants as the current legal and international framework currently offers no protection.

17. The aforementioned international framework demonstrates that Kiribati migrants do not fit within the current system. Therefore if mass migration was to take place there would be no institution in charge of collecting their data nor ensuring the provision of basic services. More

² Jane McAdam, *Disappearing State*, 2013 <http://blog.oup.com/2013/03/disappearing-states-climate-change-international-law-pil/#sthash.Sk9hpRSQ.dpuf>

³ *Ibid.*

problematic, few countries are willing to create a unilateral agreement to accept climate change refugees. Fiji announced in February that it would take Kiribati immigrants if their country was submerged.

18. Moreover as the environmental effects are slow-onset it is difficult to determine what constitutes economic migration, which is usually voluntary, and what constitutes displacement, presumably forced. There has been little research in this area. It will be difficult to determine when an individual would be found to be a refugee. It is possible that those who leave in anticipation of the effects of climate change may face more adversity in trying to migrate than those who wait until there are no other options. Moreover it is likely that those who leave earlier will be the more healthy, educated and wealthy leaving behind the more vulnerable groups to cope with a disintegrating nation.

19. Furthermore, the relocation of communities through mass migration raises its own issues. While Kiribati has secured some territory in Fiji there is much more to relocation than this. Mass migration or relocation raises the fundamental issues of identity and self-determination. According to McAdam it is imperative that if this was to occur the I-Kiribati receive the right to remain in their new country, enjoy work and health rights there, and be able to maintain their culture and traditions.⁴ Mass migration and relocation also raises the question of how to balance the rights of the relocating groups and those of the new community that they move to. Furthermore, the effects of dislocation can have a significant impact on the enjoyment of cultural and social rights by the resettled community. Case studies of relocation in the Pacific illustrate that the forced relocation of communities often results in a struggle to re-settle owing to their strong relationship with their land. This is even greater where the land is physically lost and immigrants cannot return.

20. Recommendations

While recognizing the ongoing efforts taken by the Government of Kiribati and the limitation of the available resources and the responsibility of the international community toward the I-Kiribati, we make the following recommendations to the Government of Kiribati:

1. To continue in its efforts to find an adequate long-term political solution for displaced persons, in consultation with the relevant UN mechanisms.
2. To adopt a rights-based approach to climate-induced displacement, ensuring such displacement does not affect the enjoyment of the community's socio-cultural rights.
3. In the case of displacement by extreme weather, to strengthen its efforts to ensure the access to shelter and disaster preparedness.
4. To take measures to ensure relocated communities are protected against forced eviction without appropriate legal and other protection, including providing adequate consultation with affected persons.

⁴ Jane McAdam, Disappearing State, 2013 <http://blog.oup.com/2013/03/disappearing-states-climate-change-international-law-pil/#sthash.Sk9hpRSQ.dpuf>

- 5. To negotiate with the UN a timely legal solution for the political identity of the Kiribati State, as a people displaced by climate change.**