

# Criminalisation of Homosexuality

Updated 25 October 2015

 Kiribati		
<p><b>National Law:</b> <i>Penal Code, Revised 1977, Chapter 67<sup>1</sup></i></p> <ul style="list-style-type: none"> <li>- <b>S153:</b> Unnatural Offences<sup>2</sup></li> <li>- <b>S154:</b> Attempt to Commit<sup>3</sup> Unnatural Offences and Indecent Assaults</li> <li>- <b>S155:</b> Indecent Practices between Males<sup>4</sup></li> </ul>	<p><b>Maximum Penalties:</b></p> <ul style="list-style-type: none"> <li>- 14 years' imprisonment</li> <li>- 7 years' imprisonment</li> <li>- 5 years' imprisonment</li> </ul>	<p><u>Treaty Ratification</u></p> <p style="text-align: center;">CEDAW CRC</p>
The law is only applicable to men.		
Enforcement	<ul style="list-style-type: none"> <li>- <b>2014:</b> The 2014 US State Human Rights Report found that there were no reports of prosecutions directed at gay, bisexual, or transgender persons under the country's penal provisions.<sup>5</sup></li> </ul>	
Statements by Public Figures	<ul style="list-style-type: none"> <li>- There have been no recent statements by public ministers. However, the government has spoken in favour of repealing laws in its Universal Periodic Review (see below).</li> </ul>	
Persecution and Discrimination	<ul style="list-style-type: none"> <li>- <b>2014:</b> The 2014 US State Human Rights Report found no instances of persecution in Kiribati or societal discrimination or violence based on sexual orientation or gender identity.<sup>6</sup> There is no law specifically prohibiting discrimination on the basis of sexual orientation or gender identity.</li> </ul>	
Legislative News	<ul style="list-style-type: none"> <li>- <b>2015:</b> (UPR) In response to recommendation 66.23 of the 2010 UPR, Kiribati's 2<sup>nd</sup> Cycle National Report explained that "[t]here has not been any prosecution of same sex offenders although "buggery" is an offence prohibited by the Penal Code Cap 67" but provided no further information on the status of the laws criminalising homosexual sexual conduct.<sup>7</sup> During the 2<sup>nd</sup> cycle UPR, the CHRI noted that despite Kiribati's commitment to consider decriminalisation, the prior recommendations remain pending.<sup>8</sup> Further recommendations with respect to decriminalisation as well as adopting legislation to expand forms of discrimination that are prohibited were included in the UPR working report.<sup>9</sup> In response, Kiribati noted the recommendations calling for decriminalisation and indicated that it would consider the recommendation with respect to adopting legislation prohibiting all forms of discrimination of</li> </ul>	

	<p>individuals, based on race, colour of the skin, religion, national or ethnic origin, disability, aesthetic aspect, gender, sexual identity or orientation.<sup>10</sup></p> <ul style="list-style-type: none"> <li>- <b>April 2014:</b> The Government rejected a bill introduced privately by a member of parliament to amend the Constitution to include sex, gender and sexual orientation as grounds for discrimination.<sup>11</sup></li> <li>- <b>2010:</b> (UPR) Kiribati confirmed that it was prepared to consider the recommendations to decriminalise homosexuality, and to amend its Constitution so as to expand the prohibited grounds of discrimination to include not only gender, but sexual orientation, disability, health status and economic status.<sup>12</sup></li> </ul>
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<sup>1</sup> The law is : [www.pacii.org/ki/legis/consol\\_act/pc66/](http://www.pacii.org/ki/legis/consol_act/pc66/)

<sup>2</sup> *Penal Code, Revised 1977, Chapter 67, s.153: 'Any person who- (a) commits buggery with another person or with an animal; or (b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for 14 years.'*

<sup>3</sup> *Penal Code, Revised 1977, Chapter 67, s.154: 'Any person who attempts to commit any of the offences it specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years.'*

<sup>4</sup> *Penal Code, Revised 1977, Chapter 67, s.155: 'Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years.'*

<sup>5</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Kiribati, 2014*

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236446>

accessed on 24 August 2015

<sup>6</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Kiribati, 2014*

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236446>

accessed on 24 August 2015

<sup>7</sup> UNHRC, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Kiribati* (4 November 2014) UN Doc A/HRC/WG.6/21/KIR/1

<sup>8</sup> UNHRC, *Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Kiribati*, 27 October 2014, UN Doc A/HRC/WG.6/21/KIR/3, at para. 16

<sup>9</sup> UNHRC, *Report of the Working Group on the Universal Periodic Review: Kiribati*, 13 April 2015, UN Doc A/HRC/29/5, Recommendations 84.50 to 84.50.

<sup>10</sup> UNHRC, *Report of the Working Group on the Universal Periodic Review Kiribati: Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review* (1 July 2015), UN Doc A/HRC/29/5/Add.1

<sup>11</sup> UNHRC, *Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Kiribati*, 27 October 2014, UN Doc A/HRC/WG.6/21/KIR/3, at para. 31

<sup>12</sup> UNHRC, *Report of the Working Group on the Universal Periodic Review* (30 September 2010) UN Doc A/HRC/15/3/Add.1