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CORRUPTION AND ANTI-CORRUPTION IN KIRIBATI

QUERY

Could you provide an overview of corruption and anti-corruption in Kiribati?

CONTENT

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Date

28 January 2013

CAVEAT

Recent literature and studies on the current political situation in Kiribati as well as in-depth research on corruption and the impact of corruption on specific sectors in the country are limited.

SUMMARY

Corruption is a widespread problem in Kiribati, but the limited available research makes it challenging to properly assess the level and impact of corruption in the country. Much like its neighbours, Kiribati is situated in the global average in terms of its performance on governance indicators.

Political corruption and nepotism seem to be the main corruption issues in Kiribati, and the economic importance of the fishing industry and fishery management increasingly makes it a corruption-prone area.

The country's small population and limited resources are obstacles to setting up fully functioning governance and oversight mechanisms. Kiribati still lacks many essential attributes of an efficient anti-corruption system.

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This anti-corruption Helpdesk is operated by Transparency International and funded by the European Union

1 OVERVIEW OF CORRUPTION IN KIRIBATI

Background

Understanding the geographical, economic and political context of Kiribati is necessary to grasp the corruption and governance situation of the country.

Similarly to many other Pacific Island Countries, Kiribati has a very small and geographically isolated economy. Kiribati is a rather poor country, with a GDP per capita below US$2,000 (2011). The country has a small population of approximately 100,000 people and a limited land territory (800 square kilometres). The maritime territory of Kiribati is large with an Exclusive Economic Zone (EEZ) of 3,500,000 square kilometres, providing the country with exceptional marine wealth. Kiribati is highly dependent on fisheries and the fishing industry represents more than 40 per cent of the national income. Besides fisheries, Kiribati lives off of its seaweed, copra and pearl cultures, and it receives significant amount of foreign aid from Australia, the European Union, Japan and New Zealand. Most of this foreign assistance is directed towards sustainable development and mitigation of climate change risks (France Diplomatie 2012).

Kiribati has been an independent state since 1979 after gaining increasing autonomy from the United Kingdom. It is now a republic with the special feature of having one person holding the mandates of both president and prime minister. The president is chosen by Parliament, which is elected through free and fair elections. The World Bank's governance indicators suggest that Kiribati is a politically stable nation but that the effectiveness of its government and its regulatory quality are extremely poor.

Kiribati has two levels of government: central and local. The local level government is divided into urban town councils and rural island councils. These are responsible, to a large extent, for service delivery. They often blend elements of traditional and democratic governance. Traditional authority is very important and respected in Kiribati. Traditional leaders strongly influence local government and have a reserved seat on the local council (Commonwealth Local Government Forum no date).

Extent of corruption

Transparency International's Corruption Perception Index 2011 ranks Kiribati 95th out of the 182 countries and territories assessed, with a score of 3.1 on a scale of 0-10 where 0 means that a country is perceived as highly corrupt and 10 means that a country is perceived as very clean. Kiribati's score is very similar to its neighbours – Tonga scoring 3.1 and Vanuatu scoring 3.5. Like Tonga, Kiribati ranks 17th out of the 35 countries in the Asia Pacific Region.

The World Bank's Worldwide Governance Indicators (WGI) place Kiribati in the upper half of the percentile ranks – with a rank of 62.6 on a scale of 0 to 100 – in terms of control of corruption. Kiribati's rank has remained relatively stable in the last decade with a rank of 55.6 in 2002 and 60.2 in 2007. The country's rank on rule of law (58.2) places the country in the upper half of the percentile ranks. It has dropped quite significantly between 2007 (73.2) and 2008 (62) and has continued to drop, more slowly but consistently, since.

Forms of corruption

Petty and bureaucratic corruption

Petty bribery has historically been seen as an issue in Kiribati, but it is not considered to be excessively problematic (US Department of State 2006). It might, however, become a growing issue in the fishing industry (see below).

The World Bank/International Finance Corporation's 2013 report Doing Business on Kiribati does not flag bribery as an extra cost for starting a business, particularly concerning construction permits, getting electricity, registering property or securing/enforcing a contract in the country.

A worrying trend reported by Freedom House concerns wrongdoings and corruption in the oversight of foreign investment and the granting of visas and immigration status, particularly for Chinese investors (Freedom House 2012). Within Kiribati's public administration, police and customs officers are considered as two of the most corruption-prone institutions (Larmour 2012).

Most Pacific Islands share the issue of a capacity deficit in the public sector. As a result, proper checks and balances are not in place and administrative structures and services are not fully institutionalised (Chêne 2010). The Heritage Foundation also points to Kiribati's public administration as performing poorly (Heritage Foundation 2012). This type of situation generally presents the risk of citizens having to pay for free services or paying bribes to "get things done".

Larmour states that the decline in cultural sanctions in Kiribati, where those involved in theft have historically been ostracised, has led to an increase in petty corruption among junior civil servants (Larmour 2012).

Grand corruption

Similarly to Tonga and the Cook Islands, Kiribati does not experience significant corruption in public procurement, according to Larmour (Larmour 2012). Too little information is available currently to confirm or refute this view.

Kiribati adopted its Procurement Act in 2002, but concerns were expressed soon afterward that the act was not enforced properly and that not all government procurement went through the appropriate procedures as required by the act. This issue raised public interest and a motion was passed in 2008 urging the government to fully comply with the act. Government abuse can be illustrated by the example of the minister of communication, transport and tourism pressing the state-owned Kiribati Shipping Services Limited to purchase a ship owned by a former member of parliament despite the removal of the precedent Board of Directors, unlawful payments, and abusive and corrupt tactics to obtain necessary signatures (Pacific Islands Forum Secretariat 2008).

State-owned enterprises do not operate in a fully transparent manner and there are very important delays in their reporting to the National Audit Office (Pacific Islands Forum Secretariat 2008). Experts recognise the need to improve the reporting and efficiency of the multitude of state-owned enterprises (Pacific Institute of Public Policy 2011).

Political corruption

Political corruption is a serious problem in Kiribati according to Freedom House's Freedom in the World 2012 report. Government officials have allegedly been able to engage in corrupt practices with impunity (US Department of State 2011). Experts define the political culture of Kiribati to be exceptionally egalitarian, where leaders are very conscious of exercising power on behalf of the people. This social setting supposedly acts as a deterrent to the elites' use of power for their own gain. Some occurrences of government officials abusing their power have nevertheless been reported (Pacific Islands Forum Secretariat 2008).

Political parties in Kiribati are organised loosely and do not operate on a formal platform (Freedom House 2012). Political financing is barely regulated and transparency of political contributions is not required by law (IDEA 2012).

Freedom House qualifies Kiribati as an electoral democracy. The last elections that were held in the country were considered free and fair (US Department of State 2011).

Nepotism and cronyism

The geographic and demographic situation of many of the Pacific Islands creates a sense of smallness and lack of anonymity (Larmour 2012), which requires looking at conflicts of interest and cronyism through a particular lens since the risk is increased by small geographical scale.

Nepotism is widespread in Kiribati and is based on tribal, religious and family ties (US Department of State 2011). Geography, ethnicity and personal relationships play a significant role and influence political affiliations (Freedom House 2012). There have been allegations of nepotism in civil service appointments (Larmour 2012).

Money laundering and organised crime

No information could be found on money laundering risks in Kiribati.

There is, however, a significant risk of trafficking persons in Kiribati, especially related to the sexual exploitation of women and children. This issue is

allegedly linked to the importance of the fishing industry and the presence of large numbers of crew members of foreign fishing vessels. So far, the government has not taken sufficient steps to stop these criminal activities (US Department of State 2012).

Fisheries

Kiribati has a significant Exclusive Economic Zone (EEZ) with great marine wealth. Its economy is heavily dependent on fishing and fisheries; the proceeds from issuing fishing licences are an important source of revenue for the state – representing almost 42 per cent of GDP (Hanish and Tsamenyi 2008). Fishery is the country's only major natural resource, making the management of fishery revenue politically sensitive. Fisheries are increasingly becoming a site for corruption (UNDP 2007).

Most problems that Kiribati's fishing industry faces are common to all Pacific Islands. A study prepared in 2007 for the Australian National Centre for Ocean Resources & Security identifies the areas of fishing licensing, access agreements, and monitoring and inspection as being the most vulnerable to corruption. The weak legal and administrative frameworks combined with discretion and a lack of transparency create significant corruption risks. Corruption occurs both at the "low level", where bribes in the form of fish, gifts, holidays, excessive per diems or tuition fees at academic institutions are given to public officials and their families; and at a higher level, through large financial transactions, political interference in administrative practices and organised criminal behaviour (Hanish and Tsamenyi 2007).

The fishing industry is governed by the Ministry of Fisheries and Marine Resources Development. The contrast between the importance of marine wealth and the limited resources and small population of Kiribati make it extremely challenging for the country to have adequate fishing administration and oversight (Teo, Hanish and Tsamenyi 2009).

Kiribati is part of the Pacific Islands Forum Fisheries Agency, an advisory body providing support and expertise to its 17 member states and offering the services of a Vessel Monitoring System Centre and a Regional Fisheries Surveillance Centre. Kiribati also has a number of bilateral fishery agreements with Japan, South Korea and Taiwan, among others.

Corruption in fisheries has a considerable impact on daily life and sustainable development in the region. On top of siphoning off revenues and resources, it threatens to deepen the issue of over-fishing and to destroy customary fishing practices, mainly through undermining the operations of fisheries management institutions and fishing regulations (Hanish and Tsamenyi 2008). The Pacific Islands are also heavily dependent on fisheries as the main source of food (Hanish and Tsamenyi 2007), making the issue even more crucial.

2 GOVERNANCE STRUCTURE AND ANTI-CORRUPTION EFFORTS IN KIRIBATI

Legal framework

International conventions

Kiribati has not ratified the United Nations Convention against Corruption (UNCAC), but the country sees increasing public awareness. It celebrated its first ever Anti-Corruption Day in 2011 in collaboration with the United Nations Development Programme (UNDP), focussing on the importance of the UNCAC and raising awareness among the public and parliamentarians (UNDP/UNODC 2011).

Since 2005, Kiribati is a state party to the to the 2000 Palermo Convention on Transnational Organised Crime and its supplementing protocols (with the exception of the protocol on firearms).

In addition, to coordinate its anti-corruption efforts, Kiribati is part of the Pacific Islands Forum Secretariat which hosts the Political Governance and Security Programme, promoting good governance and election observance, among others.

National legislation

Kiribati's Penal Code of 1977 (article 85 to 95) criminalises passive and active bribery of public officials. The code covers persons who "asks for, solicits, receives or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind" (passive corruption), and persons who "corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure, or attempt to procure …

any property or benefit of any kind" to public officials (active bribery). Notably, bribery of foreign officials is not criminalised in Kiribati. The existence of corporate liability in Kiribati is unclear since the only sanction provided for is imprisonment, making it unclear how to sanction a legal person. Money laundering is a crime under the Proceeds of Crime Act of 2003.

Regulations regarding conflicts of interest are limited in Kiribati. The Privileges, Immunities and Powers of the Maneaba Ni Maungatabu Act of 1986 regulates privileges and immunity for parliamentarians. The Constitution of Kiribati states that public officials shall always give priority to their public duty over their private interests. The National Conditions of Service governs the conduct of civil servants and sets out the rules regarding involvement in commercial activities, receiving gifts and hospitality, among others. (Pacific Islands Forum Secretariat 2008). Income and asset disclosure is not required in Kiribati (CMI 2009).

Political financing is poorly regulated in Kiribati. There are currently no laws or rules concerning political financing in the country. The identity of donors does not have to be disclosed and there are no bans on contributions to political parties or individual candidates. The accounts of political parties are neither checked by an external institution nor published. Lastly, Kiribati does not impose a limit on political parties' expenditure. The Elections (Amendment) Act of 2009 bans vote buying in Kiribati (IDEA 2012).

No information could be found indicating that Kiribati has adopted whistleblower protection legislation or established mechanisms through which corruption can be safely and anonymously reported.
Kiribati does not yet have an access/freedom of information law allowing citizens and the media to access government information. The government is, however, working to adopt such a law and recently recruited consultants to help with the development of the draft legislation (UNDP 2012).

Institutional framework

Financial intelligence unit

Kiribati does not yet have a financial intelligence unit but is currently in the process of setting one up – with the objective of establishing a system to report suspicious transactions (APG on Money Laundering 2013).

Judiciary

Kiribati's judicial system is modelled after English common law. The country has a High Court, Magistrates' Courts and a Court of Appeal; final appeals go to the Privy Council in London.

The Constitution of Kiribati provides for an independent Judiciary and the government has generally respected the independence of the judicial system (US Department of State 2011). All judicial appointments are made by the president, which represents a risk for the independence of the institution.

According to the Heritage Foundation, Kiribati's judicial system is ineffective and the rule of law is unevenly respected across the country (Heritage Foundation 2012). Extrajudicial traditional justice has remained a part of daily life in a number of villages, especially in the outer islands; this custom is however slowly decreasing (US Department of State 2011).

Experts state that there have been concerns over the government's reluctance to respect court decisions, particularly when it necessitates payment of state money (Pacific Islands Forum Secretariat 2008).
Most studies on the region report that there is little judicial corruption in the Pacific (UNDP 2007).

Anti-Corruption commission

Kiribati does not have an anti-corruption commission to act as a watchdog against mismanagement and corrupt behaviour.

Supreme audit institution

The Constitution of Kiribati establishes the National Audit Office, headed by the auditor-general, as an independent institution responsible for the audits of government departments, state-owned companies, annual accounts of the Treasury and local governments/Island Councils as well as development projects. The auditor-general answers to Parliament – to whom it submits the audited reports. Parliament has a Public Accounts Committee within its structure, which oversees the government's accounts. The

Australian Agency for International Development (AUSAID) states that the audit office has made great efforts in recent years to begin a rigorous audit regime.

Internal auditing in Kiribati is weak. It lacks a clear mandate and adequate resources and has limited capacity. Experts note that there is a general lack of understanding of the importance of the role of the audit office in the country. The independence of the institution is questionable, in particular with regards to recruitment and financial resources (AUSAID 2010).

The systematic delays in submission of government accounts often did not allow for the audit office to report to parliament in a timely manner. Only recently did the ministries start submitting their accounts to the audit office on time. Most statutory bodies and state-owned enterprises are, however, still several years overdue for auditing (Pacific Islands Forum Secretariat 2008).

Kiribati's audit office is part of the Pacific Association of Supreme Audit Institutions (PASAI) which gives its 25 member states a platform to exchange and support each other with regards to their supreme audit institutions.

Office of the ombudsman

Kiribati does not have an ombudsman, an ombudsman's office or an equivalent institution to deal with complaints and reports of misbehaviour coming from citizens.

Citizens can complain in the framework of the National Conditions of Service and the senior responsible officer will be in charge of dealing with these complaints. The system is very slow and ineffective (Government of Australia 2009).

The police forces have their own Professional Standards Unit to investigate reports of police abuse and complaints. The unit is composed of only two staff and is supported by AUSAID (Government of Australia 2009).

Electoral office

The Constitution of Kiribati establishes the Electoral Commission as an independent entity in charge of the registration of voters and the proper conduct of elections.

The chief electoral officer is appointed by the minister of home affairs, which could present a challenge for the independence of the office. S/he has a team varying from two to four staff.

Observers qualified the last elections in Kiribati as free and fair. No information could be found on the practical functioning and efficiency of the office.

Other actors

Media

Kiribati's constitution provides the right for freedom of speech and press, and the government generally respect these rights (US Department of State 2011). Freedom House has consistently defined the status of press in Kiribati as being free. To operate, newspapers have to register with the state under the Newspaper Registration Act of 2004, which gives the government the right to stop the publication of a news outlet facing complaints (Freedom House 2008). This has created situations in which portions of the population not having access to the internet were deprived of news (Pasifika Media Association 2012). Delays in the attribution of licences have also been reported (Reporters Without Borders 2012). In 2007, Kiribati joined the Micronesian Media Association to promote the independence of the press and freedom of speech.

No government restriction on the media has been reported in recent years, but there is a concern over the lack of independent local media since the local media outlets are either operated by the government's Broadcasting and Publications Authority or part of a media consortium owned by a parliamentarian (US Department of State 2011). Opposition leaders sometimes faced refusals to broadcast their speeches in election periods (Freedom House 2008). In 2006, a reporter was sacked from Radio Kiribati for refusing to reveal his sources in a report about a case of corruption involving the auditor-general (Radio New Zealand International 2006).

There is no government restriction on the internet, but Kiribati has one of the world's most expensive internet connections since the country only has one

provider. Moreover, the coverage is extremely poor, with less than 0.5 per cent of the population using high speed internet on a regular basis (World Bank 2012).

Civil society

Kiribati's constitution guarantees freedom of assembly and association, and the government generally respects this right (US Department of State 2011). To receive official recognition, civil society organisations should apply to the Registrar of Societies. There are a number of civil society organisations in Kiribati working on education, health, environmental issues, development assistance, and advocacy for women and children (Freedom House 2012). Thirty-nine of them have been gathered in an umbrella organisation called Kiribati Association of Non-Government Organisations (KANGO) to exchange and support each other (Commonwealth Network 2013).

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