

Gender and
Statelessness



Kiribati

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

Children born in Kiribati are considered citizens where the child is of i-Kiribati descent, or their father is a citizen of Kiribati.¹ I-Kiribati descent means a person one or more of whose ancestors was born in Kiribati before 1900.²

Children born outside of the country

Children born outside Kiribati automatically become Kiribati citizens if at the date of birth, the father is a citizen of Kiribati.³

For the conferral of citizenship on a child born out of wedlock, any reference to the father of a person is to be construed as a reference to the mother of that person.⁴

ADOPTED CHILDREN

A child adopted under law who is not a citizen of Kiribati on the date of adoption becomes a citizen on that date if the adopter, or in the case of a joint adoption the male adopter, is a citizen on that date.⁵

Customary adoptions are acknowledged under Kiribati law, whereby the fact that a customary adoption has not been registered

does not affect the validity of that customary adoption.⁶

FOUNDINGS

Citizenship of foundlings is not explicitly recognised under Kiribati citizenship law.

The Kiribati *Births Deaths and Marriages Registration Ordinance* does however set out requirements for the registration of a newborn child which is found, whereby it is the duty of the person finding the child to give the relevant particulars to the registrar.⁷ The implications of this for citizenship are unclear.

REGISTRATION OF THE BIRTH OF A CHILD

Particulars of the birth of every child are required to be registered by the registrar for the district in which the child was born.⁸ It is the duty of the father and mother of the child to give the information to the registrar within 10 days of the date of birth.⁹

LOSS AND RENUNCIATION OF CITIZENSHIP

Renunciation of Kiribati citizenship is permitted only where a person already holds some other nationality or citizenship; or the

¹ *Constitution of Kiribati (Kiribati Independence Order 1979)* s 25(1) ('*Constitution*').

² *Ibid* s 29(1)(a).

³ *Ibid* s 25(2).

⁴ *Ibid* s 29(1)(c).

⁵ *Citizenship Act 1979* s 6 ('*Citizenship Act*').

⁶ *Births, Deaths and Marriages Registration (Amendment) Act 2007* s 5.

⁷ *Births, Deaths and Marriages Registration Ordinance 1967* s 11.

⁸ *Ibid* s 9(1).

⁹ *Ibid* s 10.

renunciation is for the purpose of his obtaining some other nationality or citizenship.¹⁰

A person who is not of i-Kiribati descent who is of full age loses citizenship where the person:

- Obtains the nationality of citizenship of another country by a voluntary act (other than marriage);
- Exercises a right that is exclusive to nationals or citizens of another country (except inadvertently);
- Pledges allegiance to another country;
- Does any act (other than marriage) by which the person becomes a national or citizen of another country;
- Enters the armed forces of another country; or
- Votes or accepts elective office in another country.¹¹

NATURALISATION FOR SPOUSE OF CITIZEN

A woman who marries a person who either is or becomes a citizen of Kiribati is entitled to become a citizen of Kiribati by application.¹²

A person may also become a citizen by naturalisation where the person, at the date of application and seven years prior to that date, was ordinarily resident in Kiribati.¹³

The *Citizenship Act* sets out a number of requirements for the application including:

- Intent to continue to reside in Kiribati; good character;
- Means to support oneself;
- Can speak and understand Kiribati at a conversational level; and

- Has renounced any other citizenship.¹⁴

A male applicant may request that his wife and/or child be included in the application.¹⁵

DUAL NATIONALITY

The Constitution of Kiribati provides for the avoidance of dual nationality.¹⁶ Any person, other than a person of i-Kiribati descent, who is over 18 years of age and becomes a citizen of Kiribati, must renounce or lose the nationality of another country.¹⁷ Without doing so, the person ceases to be a citizen of Kiribati.

GENDER EQUALITY ACHIEVED

Gender equality with respect to citizenship has not yet been achieved in Kiribati. Citizenship of a child is conferred by the father. Additionally, naturalisation by marriage is only possible for women marrying male Kiribati citizens.

It is to be noted also that the *Constitution* and *Citizenship Act* do not use gender-neutral language, using only the pronoun “he” throughout the relevant provisions.

GENDER AND STATELESSNESS RISKS

Kiribati citizenship being conferred to children through the father creates significant risk with respect to gender discrimination and citizenship.

This risk is mitigated only to a degree by the provision that where a child is born out of wedlock, “father” is to be construed as a reference to “mother”. Additionally, the definition of “i-Kiribati descent” does not distinguish based on gender, which may also assist in this regard.

¹⁰ *Citizenship Act* (n 5) s 9.

¹¹ *Ibid* s 9.

¹² *Constitution* (n 1) s 26.

¹³ *Citizenship Act* (n 5) s 7(2)(a).

¹⁴ *Ibid* s 7(2).

¹⁵ *Ibid* s 7(3).

¹⁶ *Constitution* (n 1) s 24.

¹⁷ *Ibid* s 24.

Gender discrimination is consistent in other provisions, for example conferral of citizenship to an adopted child; citizenship by marriage; and the use of male pronouns throughout the legislation.

Kiribati remains the only state amongst 14 reviewed in the Oceania region which confers citizenship in this discriminatory manner.

There are also risks due to the gap in the legislation regarding citizenship for foundlings, and provisions for the avoidance of dual citizenship.

UNHCR Representation in Canberra

***Note:** This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.*