

I . Safeguarding Efforts & Policy

1. Related Laws

In order to ensure safeguarding efforts of the ICH, the safeguarding measures must be stipulated by law so that stakeholders are fully aware of their obligations and penalties are enforced.

Staff must also be well-trained in broad areas of culture so that they are capable of creating innovative and creative safeguarding policies.

Staff must also be able to develop innovative programs that foster mutual respect and understanding by different communities on cultural matters in Kiribati.

However, it is a matter of concern that Kiribati does not have a legal framework that specifically safeguards the ICH. Nevertheless, there are some Government ministries and institutions that are playing their sectoral roles in the preservation of ICH.

The Ministry of Education (ME) by the powers conferred by Section 4, (a), (i), (ii) and (ii) of the Education Act provides for high quality education which implies that knowledge of I-Kiribati culture is one of the ingredients of high quality education. Culture and community has become part of the school syllabus.

The Phoenix Islands Protected Area Regulations 2014 by virtues of the powers vested by Section 43 (1) and Section 86 (1) of the Environment Act 1999 and as amended in 2007 (No.1 of 2007) safeguards the fauna of Kiribati in that remote area of Kiribati. Measures by the Ministry of Commerce, Industry and Co-operatives (MCIC) are in progress to protect in the near future the Intellectual Property Right in Kiribati. Artefact as property is presently protected by the Kiribati Penal Code.

The Constitution of Kiribati does not make provision for safeguarding the ICH. However, the Preamble to the Constitution refers, among others, to “the customs and traditions of Kiribati” as something to “continue to cherish and uphold”

It is generally accepted that the Preamble to the Constitution has no legal binding on the State thereby the Constitution does silent on safeguarding the ICH.

However, this does not rule out the potential of developing a law that fosters safeguarding the ICH of Kiribati. This is therefore an important ground of establishing the law governing the safeguarding of ICH in line with principles set out in the UNESCO Convention for Safeguarding ICH.

Looking at the legal framework relating to the ICH in Kiribati it is important to present it, once more, in more details at this stage.

The Penal law similarly does not talk about safeguarding the ICH. However it provides for the “protection of life and properties”. The latter may include cultural artefacts.

2. National Curriculum and Assessment Framework

The Policies and Guidelines as laid down in the National Curriculum and Assessment Framework, for the content, structure and delivery for national curriculum for primary and secondary schools in Kiribati was developed in accordance with provisions of the Education Act. The Section of the Act provides for quality education to enable student to become responsible citizens.

A citizen exposed to his own cultural environment, literacy and other relevant subjects at competent level are closely link with the meaning of the Education Act.

This explains the rationale of having the Community and Culture become part of Syllabus of Year 1 and Year 2. This subject is also integrated in the Syllabus of secondary schools.

Although the Syllabus does not look at the ICH deeply it provides students with basic knowledge of their heritage. In this way it contributes to a large degree of effectively preserving the cultural heritage of Kiribati.

3. Education Act (2013)

The Education Act of 2013 provides a legal framework for education in Kiribati. Subject to that law the National Curriculum and Assessment Framework provides for the first time in 83 years for the inclusion of Community and Culture in the syllabus.

The important role played by the CU is the development and production of Community and Culture as the new major component of Syllabus for Primary schools. Such syllabus will also be integrated in Junior and Senior Secondary Schools.

4. Intellectual Property Strategy for Kiribati

Developing an Intellectual Property Strategy for Kiribati began in 2015 and it is still in progress. The responsible authority is the MCIC. The principle upon which the Strategy is based is the creation of an enabling environment where Kiribati could maximize opportunities of deriving value from the intellectual property and thereby contributes to economic growth and broader development.

The strategy is supposed to be cross-cutting linking to the different range of policy areas of government such as economic, social, artistic works; traditional knowledge, crafts, folklore, genetic and biological resources.

The Strategy will allow the effective coordination of such diversified areas of intellectual property to enable Kiribati to derive maximum income from intellectual property present in Kiribati.

However, the Strategy, once again, embraces a number of areas of which ICH is one part. The strategy aims to lead GOK to the development and introduction of a Bill on Intellectual Property Right thereby the ultimate enactment of an Act of Parliament in this area.

Phoenix Islands Protected Area (PIPA)

The PIPA is a 408,250 sq.km wide area of marine and terrestrial habitats in the Southern Pacific Ocean. It encompasses the Phoenix Island Group, one of three island groups in the Republic of Kiribati and at present, it is the largest designated Marine Protected Area in the world.

PIPA which is protected by Kiribati law¹ conserves one of the world's largest intact oceanic coral archipelago ecosystems, together with 14 known underwater sea mounts (presumed to be extinct volcanoes) and other deep-sea habitats. The copy of the Environment Act which provides for the establishment of PIPA Regulations is included in this report for easy reference.

PIPA contains approximately 800 known species of fauna, including about 200 coral species, 500 fish species, 18 marine mammals and 44 bird species. The PIPA's ecosystem exemplifies its unspoiled nature and importance as a migration route and reservoir. It is the first site in Kiribati to be inscribed on the World Heritage List.

PIPA is not only significant in terms of safeguarding the marine resources of Kiribati in that large area of ocean. PIPA is also of world significance in terms of contributing towards protecting global marine life. In this connection the PIPA has

¹ The Environment Act, 1999 as amended in 2007, sections:43 and 86 subsections (i) and (i) respectively that establishes the Phoenix Islands Protected Area Regulations 2014

become a reservoir of fish of diverse species and safe haven for reproduction of diverse species.

In recent development it has been speculated on good grounds that Amelia Earhart² who was lost amid her flight across the Pacific in the 1930s was landing in the middle of emergency in Nikumaroro one of the islands in PIPA, which was once upon a time, a remote area, in terms of communication. She and her navigator Fred Noonan were presumed dead of injury and starvation on the island. This theory is yet to be confirmed. However, it is hoped that if the Earhart discovery is proved true it will add to the ICH significance of PIPA.

The Lands and Agricultural Divisions of the Ministry of Environment, Lands and Agricultural Development (MELAD) are playing their respective roles in the preservation of native lands and ensuring that trees and plants that are native to Kiribati are maintained.

The Lands Division safeguards Native Lands in accordance with powers conferred upon the Chief Lands Officer³ to protect native lands most of which were ancestral lands in the manner spelt out by the law.

The basis of protection of native lands is the registration of titles to native lands by the Commission⁴. The registration by the Commission must be consistent with record in the Register of Native lands and also with registration of those titles by the Courts⁵.

Once those titles are established pursuant to the law the land owner becomes the legal owner of the land and such title becomes indefeasible⁶.

Upon establishing those titles in accordance with the law the land owner becomes the legal owner of the land and such title cannot be annulled⁷.

Alienation of native land in the form of sales, gift, lease and other forms to foreigners⁸ is restricted. The exception is given to the State, the Co-operatives registered under the Co-operative Ordinance⁹ the National Loans Board and other bodies legally registered by any other laws in Kiribati may lease native lands¹⁰ for

² www.washingtonpost.com/news/worldviews/wp/2016/09/15/amelia-earhart

³ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Native Lands Ordinance, Cap. 61, section 3, Tarawa, 1977

⁴ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Native Lands Commission, Cap.20, section 7(4), Tarawa, 1977

⁵ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Magistrate Courts Ordinance, Cap.52, sections, 59,64 (i) (b)

⁶ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Native Lands Ordinance, Cap. 61, section 2, Tarawa, 1977.

⁷ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Native Lands Ordinance, Cap. 61, section 2, Tarawa, 1977.

⁸ Ibid, section 5 (1).

⁹ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Cooperative Societies Ordinance, Cap 14

¹⁰ The Offices of the Attorney General, Laws of the Gilbert Islands, Revised Edition, Cap 61, Section 5 (2), Tarawa, 1977

normal government business, commercial purposes, for security of loans and for other intentions.

Copy of the Native Lands Ordinance is provide for easy reference.

The Agricultural Division encourages the community to replant indigenous coconut trees and plants.

It fosters poultry and piggery development in the country as well.

It restricts imports of plant product, seeds, tissue culture, sand or sand aggregate and other relevant imports to avoid dangerous species coming into Kiribati.

The Agricultural institution provides pesticide control where it is required.

Overall the flora and fauna which this country inherited from its past including those recently imported into Kiribati are protected to a significant degree.

However, fire in the bush easily caught by dry climate, exacerbated by climate change, spreads easily, and destroys whatever trees those stand on its way. Coconut tree and pandanus tree, scientifically known as *pandanus tectorius*, are the major victims of such catastrophe.

Coconut trees are often replanted with pandanus tree attracting less attention for planting. Young coconut trees are therefore abundant when compared with pandanus tree.

The importance of the pandanus tree which does not apply to the coconut tree is that it is a suitable timber for local houses. People cut the pandanus tree for that purpose. Coupled with fire, its destruction is more severe than coconut trees. There are therefore relatively few pandanus trees in the islands as compared with coconut trees.

Moreover, pandanus trees which are Indigenous to certain islands are most vulnerable to disappearance in their entirety. The type of pandanus whose fruits provide low quantity of juice are particularly in danger. They are replaced with pandanus trees imported from other islands in the archipelago that produces juice of higher quantity.

Juice of high quantity is conducive to the production of quality Te tuae. Te Tuae is a food made of pure juice extracted from boiled pandanus fruits. The juice which is creamy spreads on a wide plastic (or equivalent object), clean and flat, laid on the ground amid the heat of the day. The juice becomes dry as a result, reddish in color and very nutritional. It could be preserved for a long period of time.

The Agricultural Division plays a significant role in the protection of our trees and plants, although that protective measure needs enhancement so that indigenous plants and trees remain intact.

5. Encountered problems

Within the Cultural and Museum Division, there are a large number of books of early writings, videos, and cassettes, notes as well as books of more recent times. Among them are a number of artefacts. For example, a bowl almost the size of a half coconut shell made of the top of a human skull. This bowl is not for normal meal. Leaves of certain trees were put together in the bowl, punched using a heavy and smooth stone almost the size of the bowl to extract juice. Juice of the leaves was drunk from that human skull.

The other one is the necklace made of large quantity of human teeth worn in the past during the course of Te Waan Tarawa, and Te Bino. The necklace was an integral part of the dancing costume during the early part of the last century.

There is also an armor of a warrior comprises of trousers Te otana and jersey (Te tuta). They are made of knitted or woven coir sennit. The coat (Te tana) made of plaited coir twine with a high back piece to protect head and neck. The belt (Te katibana) made of woven coir twine or dried ray skin, 7-10 inches broad, worn round the body as protection from spears. The skull cap (Te Baratekora) made of plaited coir twine ½ inch thick to protect the head from blows and over it a helmet (Te brantauti) made of inflated porcupine fish skin. The swords are made of old well-seasoned coconut wood with shark's teeth barbs.

The manner of keeping and storing the books, cassettes, videos and the artefacts in the C&MD is not in line with a modern and down-to-earth museum. The personnel of the C&MD when locating books for borrowing seemed to use their memories and notes as opposed to the catalogue in the form of electronic devices such as CD-ROMs.

Although, the videos and cassettes are stored in appropriate places there is no record of where to locate each one of them. Most of the cassettes and videos have gathered dust without adequate and routine cleaning a situation where they may no longer be playable.

Books that were borrowed were not adequately recorded and insufficiently followed up with borrowers. Some books have not survived this situation. The explanation by those who were suspected of losing them was that they did not borrow them in the absence of C&MD's own record to refute the claim and to impose penalty.

Stricter controlling measure of safekeeping of books, video and cassettes is of paramount importance. Books, videos and cassettes must be kept in air-conditioned storage where the presence of dust is avoided and minimized.

Catalog in the form of CD-ROM must be introduced to record the books and cassettes/video with their titles and their locations in the storage, movement of books and video and cassettes and details of those who moved them including the borrowers and their personal details, date of return, ensures it is returned accordingly. Penalties may be imposed where books are lost.

The artefacts must be kept properly in places suitable for them. For example, artefacts that are considered taboo in the Kiribati culture may need to be placed in dark rooms where noise may be prohibited and only moderate light is allowed to reflect the sacred nature of the artefacts in the room.

Furthermore, they must also be displayed in a way that it impresses the visitors. Place where they are displayed in the C&MD must be improved.

Appropriate Te Ruoia and Te Bino songs may need to be played automatically and simultaneously as visitors enter the rooms where the photographs of Te Ruoia or Te Bino are displayed while visitors are watching

Local songs may need also to be played automatically in rooms where artefacts are displayed while visitors are watching. This is to impress the visitors.

C&MD appropriate staff must be provided with appropriate trainings for the proper management of ICH, upkeep of the books, cassettes and videos, proper catalog of books, cassettes, and videos in line with down-to-earth modern museum.

Staff must also be trained in developing and implementing innovative and creative ICH policies including public awareness of ICH leading to increase participation of the communities in ICH activities.

New legislation to safeguard the ICH in line with UNESCO Convention for the Safeguarding of ICH must be developed as a matter of urgency.

6. Regional Cultural Strategy

There are several Government-related organization performing the function of cultural preservation and protection of ICH in one way or the other.

The cultural affair of Kiribati is the responsibility of the MIA and in the performance of those functions the SCO is responsible for the day-to-day management of the cultural heritage housed in the C&MD. Interestingly, the C&MD does not work within a legal framework but it works as part of the MIA.

It is difficult to refer to the various functions that the C&MD is performing since its mandate is not by statute. The law may make reference to the functions of a given institution. However, in the absence of the law that refers to the functions of C&MD it is most likely that their function is either provided by the Ministerial Operation Plan (MOP) or as may be instructed by the Secretary or Minister from time to time.

The MOP is a working document developed by Senior Managers in their Senior Management Meeting (SMM) chaired by the Secretary. It sets out in details the Ministry's activities to contribute to the attainment of the Government Development goals. The SMM comprises the heads of divisions one of whom is the SCO. It is supposed that the activities related to the C&MD in the MOP are largely drawn from the input made by the SCO.

In a Briefing Note presented to the new Minister of Internal Affairs upon assuming office in March 2016 and during the course of research in this survey it is obvious that Kiribati was participating in the Regional Cultural Strategy: Investing in the Pacific Cultures 2010-2020 which has seven main goals. Within the meaning of the Strategy the C&MD is involved in the following ICH related areas:

Goal 1. Mainstream Culture into the national, social, and economic development:

Goal 1 is designed to support the development of cultural industries and expression of culture, the preservation of cultural heritage, the safeguarding of ICH and the protection of traditional knowledge, by advocating for the development of national cultural policies and by mainstreaming the culture into national development planning and policy.

In relation to Goal 1 the MIA has carried out the following important exercise and managed to achieve some of its goals:

Training on Promotion of cultural industries and preservation of local trees, plants and local food preservation. This is an integral part of the Strategic Plan of the MIA which helped to contribute towards the promotion and translation into reality of food security in Kiribati.

Trainings for the recognized cultural practitioner, women organization, youth, local artists and some community members with interest in cultural matters.

This training will continue into 2016 and there is now keen interest to organize it in collaboration with cultural industries and government ministries.

Commencing from 2005 a National Cultural Mapping (NCM) has been carried out. This is a collection and gathering of cultural information, stories, legend and myth, traditional knowledge and skills through digital recordings. This has been done on almost all islands except Tarawa Urban and the Phoenix Islands Protected Area. It is hoped to have the NCM is completed in 2017.

On a different but related note the Endangered Cultural Heritage Mapping to preserve an historical site on Tabuaeroa, Tabiteuea North has also been carried out with the SPC and the EU. The site is situated in a passage between Tabuaeroa and the main land. It comprises more 30 stones made of rock fragments resembling very tall and giant warriors. Launching of the report in this respect is due to take place sometime this year.

National Cultural Policy is still in its development stage. This is to be pursued for Cabinet approval in the third quarter of 2016.

Traditional Knowledge Policy to preserve traditional knowledge in important spheres of life of the I-Kiribati. Fishing, the building of maneaba, building of canoes for the purpose of competition, normal travelling and for fishing purpose, knotting in different forms and other important traditional knowledge.

The National Cultural Day beginning from 2009 has become part of the national celebration on Independence Anniversary. This was the result of the formal requests made by MIA within the framework of this regional programme.

Goal 2: Protection and Promotion of Cultural Rights

The goal is designed to protect and promote the cultural rights of the people of Pacific Island Countries and Territories through the application of International Conventions and development of national legislation

Kiribati has developed a draft policy on Traditional Knowledge informed by national consultations with elders from all islands in the form of workshop to better inform government on the matter. The workshop was expected to identify cultural knowledge and skills that need protection and for which individual rights is to be established and accorded legal protection. Ministry is still looking at the policy before it goes to Cabinet for approval.

Kiribati ratified in 2000 the 1972 World Heritage Convention on the Protection of Cultural and Natural Heritage. This led to Phoenix Islands Protected Area being inscribed on the World Heritage.

UNESCO Convention on the Safeguarding Efforts of ICH received much attention by elders of the country when in 2011 a workshop was held where they expressly stated their endorsement of the Convention and recommended ratification by the Government of Kiribati.

In 2014 the Cultural Officer (CO) of the C&MD and the Assistant Secretary (AS) of MIA attended the workshop held in China on the ratification and implementation of the UNESCO Convention.

The SCO of C&MD and the Assistant Secretary MIA in November 2015 attended a workshop held in Sydney addressing once more the ratification and implementation of the Convention on ICH where they indicated the positive position of Kiribati

The ratification of the UNESCO Convention on the Safeguarding Efforts of ICH and all its processes are provided for in the 2016 Work Plan and Budget of the C&MD.

Goal 3: Develop and maintain cultural sites, spaces and infrastructure.

Goal 3 is designed to ensure that sites and places of cultural significance are accorded importance and value through protection and maintenance

The Cultural and Museum Division is under the MA but it has its own building headquarters made of permanent materials where the museum is housed. All books and artefacts, cassettes, tapes and video films are housed in the museum.

Besides the headquarters building is the Maneaba the traditional meeting house designed for cultural activities including meetings, dancing and singing.

The two houses, headquarters building and the maneaba were recently renovated in 2014 and 2015 under the auspices of the Government of Kiribati and the Government of Korea.

More space for artefacts within the existing museum is required. This will become an important component of the next four years development Plan for the C&MD.

Sites and places of cultural importance have been identified during the course of the National Cultural Mapping from 2005 – 2015.

The C&MD is currently compiling all significant data related to such sites and places on every island that have been visited. This is important for cultural researchers, academics, students and the public. This is also relevant and important for tourism development.

Goal 4: is designed for the promotion of the Pacific Islands' cultural industries as a tool for development and the creation opportunities for the peoples of the Pacific Island Countries and Territories:

The C&MD is establishing its link with national cultural agencies, local art groups, non-government organizations with cultural interest and the community involved in national cultural and museum activities.

The MCIC will be helping in the registering of private entrepreneurs and delivers trainings on marketing goods and services including brand and label of origin.

Goal 5: Mainstream of arts and culture in education and training.

Goal 5 advocates for the mainstreaming of culture in education and training for a more tolerant and informed society. These objectives have been achieved:

The ME has integrated community and culture in the Syllabus of Primary, Junior and Secondary schools

Students are working more closely with the C&MD for purpose of research and other school assignment.

The cultural day organized by schools has become part of annual demonstrating and showcasing of culture.

Beauty contest: involves demonstrating cultural costumes and wears, cultural dance, traditional weaving and arts skills, speech on the theme as may be decided using indigenous language by various church youth groups and schools.

Cultural show: organized by schools for fund raising purposes

International Museum day, 18th May: this annual event in Kiribati began from 2014, to create public awareness of the importance of museum with collections of Kiribati traditions and cultural artefacts. On such occasion the public is invited to the Museum to view artefacts on display, listen to traditional music, watch dance, and listen to lectures on knowledge and skills. Cultural agencies, cultural practitioners, local artists are invited to showcase their items. Schools were also invited for poetry and other cultural competition. This Year's theme was 'Museum for Cultural Landscapes'. Three prizes were offered to winners of the competitions.

Goal 6: Promote funding and investment in the cultural sector

Goal 6 advocates for Pacific Islands and Territories' Governments to:

- a) increase supports to the cultural sector as an economic and social investment in the future of their people, and
- b) make a better use of existing and new sources of funding and donor development assistance

The Ministry of Commerce and Industry injected into the development of outer islands an appropriate sum of money for the support of home gardening, subsidized sea freight of local products from the outer islands to Tarawa Assistance by UNDP for home gardening and the restoration of traditional food crops and fishing. The project will be piloted on Nonouti, Abemama, Maiana and South Tarawa. The islands concerned will be provided with agricultural tools. Furthermore the C&MD will provide some fund for this purpose in its Budget and Work Plan for the period covering 2016 to 2019.

Goal 7: Mainstreaming culture in other social and economic sectors

Goal 7 advocates for the greater integration of culture in other development sectors and pressing global issues facing Pacific Island Countries and Territories.

The C&MD of MIA and the Environment Conservation Division (ECD) of the Ministry of Environment, Lands and Agricultural Development (MELAD) are working closely together on the preservation and promotion of traditional knowledge and skills.

The ECD of MELAD, the Tourism Division of the Ministry of Information, Communication, Telecommunication and Tourism Development (MICTTD), the MCIC and the ME are also the two institutions that the C&MD is working closely with the objective of enabling Kiribati as a nation to realize the contribution of traditional culture to the broader development goals of Kiribati.

Issues and Problems

Overall there are issues and problems impeding progress of the foregoing 7 goals. They are:

- Lack of adequate financial support for the infrastructure development of the C&MD
- Inadequate capacity building of staff of the C&MD
- Lack of technical advice for strengthening and enhancing performance of the C&MD in all its areas of its activities
- Lack of appropriate equipment to enhance mapping exercise and retrieving of cultural information in good quality from old cassettes and tapes
- Absence of strong link with other government bodies and NGOs in cultural related work.
- Lack of better co-ordination of cultural related work with other government bodies and NGOs