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## **Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1**

### **Kiribati\***

The present report is a summary of 8 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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\* The present document was not edited before being sent to the United Nations translation services.

## **I. Background and framework**

### **A. Scope of international obligations**

1. Amnesty International (AI) and Kiribati Women Activists Network (KWAN) highlighted that Kiribati had not ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>2</sup> Joint Submission 3 (JS3) added that neither the Convention on the Rights of Persons with Disabilities (CRPD) nor the Pacific Regional Biwako Millennium Framework (BMF) had been signed by the Government.<sup>3</sup> AI recommended that Kiribati accede to CRPD, ICCPR and ICESCR, and enact laws through Parliament to reflect the provisions of these standards, as well as other human rights treaties to which Kiribati is a party, in domestic laws.<sup>4</sup>

2. Joint Submission 1 (JS1) recommended that Kiribati withdraw the reservations to articles 24 b, c, d, e and f, 26 and 28 b, c and d of the Convention on the Rights of the Child (CRC).<sup>5</sup> In addition, (KWAN) urged Kiribati to consider the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC).<sup>6</sup>

### **B. Constitutional and legislative framework**

3. Amnesty International (AI) noted the position of the Kiribati courts that international human rights treaties are only applicable once they have been legislated by Parliament.<sup>7</sup> JS1 highlighted that Kiribati's implementation of the CRC is still pending effective incorporation of the provisions into domestic legislation.<sup>8</sup>

4. JS3 indicated that the Constitution has a section on the fundamental rights and freedoms of the individuals, which states that every individual is entitled to life, liberty, security of the person, and the protection of the law. The rights to freedom of conscience, of expression, and of assembly and association are also recognized. In addition, no person may be treated in a discriminatory manner under law or by any public official. According to JS3, there is a definition of discrimination, but it does not specifically refer to disability. JS3 urged Kiribati to amend the Constitution so as to allow for disability as a non-discriminatory ground.<sup>9</sup> Furthermore, K-WAN urged the Government, as a matter of priority, to amend the Constitution to include sex and gender as prohibited grounds of discrimination.<sup>10</sup>

5. AI highlighted that a number of legislative provisions discriminate in fact against women and girls in Kiribati. Discriminatory provisions exist in laws that cover a wide range of areas, including family law, sexual offences, domestic violence, property and inheritance laws.<sup>11</sup> AI called on the Government to review all relevant laws which discriminate or impact negatively on women, and to amend laws and change policies and practices which either expressly discriminate against or perpetuate the discrimination and marginalisation of women.<sup>12</sup>

6. JS3 noted that there is no specific disability legislation and recommended that Kiribati create a gender and human rights compliant disability legislation that would include Article 3 and Article 6 of CRPD as guiding principles.<sup>13</sup> JS3 also urged Kiribati to amend any existing laws that are discriminatory to people living with disability.<sup>14</sup>

### **C. Institutional and human rights infrastructure**

7. K-WAN noted that Kiribati has no UN-recognised national human rights commission and considered that it lacks the resources and capacity to establish one. K-WAN urged Kiribati to consider lobbying and entering into partnership with other Pacific Islands States to support the establishment of a regional human rights commission. It added that such regional mechanism could be closely tied to the Pacific Islands Forum Secretariat (PIFS).<sup>15</sup> JS3 also made a recommendation in this regard.<sup>16</sup>

8. JS1 noted the establishment of the Kiribati National Advisory Committee on Children (KNACC) to oversee the implementation of the CRC. It highlighted that the Committee had faced a number of financial and human resources limitations in the past and urged Kiribati to ensure it is adequately resourced to carry out its work effectively.<sup>17</sup>

### **D. Policy measures**

9. JS1 recommended that Kiribati take greater steps in promoting human rights education by making known to all citizens their rights as set forth in the Universal Declaration on Human Rights.<sup>18</sup> Noting that many parents were not fully aware of their responsibilities with respect to their children, JS1 further recommended that Kiribati, as part of its obligations under the Convention on the Rights of the Child, take steps to inform rights-holders, parents and other stakeholders of their rights and obligations under the Convention.<sup>19</sup>

10. JS3 commended the Government for its efforts in relation to persons with disabilities<sup>20</sup> and hoped that policies will promote greater awareness and understanding of disability as well as the needs of persons with disabilities and their families.<sup>21</sup> JS3 further proposed that another disability survey be carried out to update the figure on persons with disabilities.<sup>22</sup>

## **II. Promotion and protection of human rights on the ground**

### **A. Cooperation with human rights mechanisms**

#### **1. Cooperation with treaty bodies**

11. JS3 noted that whilst Kiribati is a party to CEDAW and CRC, reporting pursuant to ratification of these conventions was delayed.<sup>23</sup> K-WAN made similar observations and urged the Government to complete, as a matter of priority, the State report to CEDAW and submit it in 2010. It added that nothing was done to promote awareness of the role of NGOs in preparing CEDAW reports.<sup>24</sup> JS3 urged Kiribati to enter into partnership with NGOs in the preparation and coordination of reports on human rights conventions.<sup>25</sup>

#### **2. Cooperation with special procedures**

12. JS1 recommended that Kiribati issue a standing invitation for Special Procedures to visit the country with particular emphasis on a future visit by the Special Rapporteur on the right to education.<sup>26</sup>

## **B. Implementation of international human rights obligations**

### **1. Equality and non-discrimination**

13. AI highlighted that unequal or discriminatory treatment of women and girls occurred in almost all aspects of economic, social and cultural life. The fact that the Constitution gives constitutional status to customary law often allows for more discrimination against women, in particular due to the perception about the inferior status and role of women in traditional Kiribati society.<sup>27</sup>

14. AI noted that women are hardly allowed to speak in the *Maneabas* (traditional meeting houses), nor are they treated equally in the decision-making in the family.<sup>28</sup> K-WAN urged the Government to promote and support participation of women in decision-making at the family and village level.<sup>29</sup>

15. AI also noted that patrilineal inheritance has been accorded legislative status.<sup>30</sup> According to K-WAN, women's rights to inherit land and/or money are determined by their status as spouse, issue or next-of-kin. The Native Lands Ordinance states that land is generally passed on to the issue or next-of-kin of the deceased, to the exclusion of the widow. This law is based on custom, which varies slightly in the different islands of Kiribati. However, the commonality is that women as spouses only get land as gifts for nursing the deceased husband, where the issue or next-of-kin neglected him. Where land is otherwise given as a gift, it must be approved by the majority of the issue or next-of-kin. K-WAN added that when women do inherit as issue, they do not get the same quantity or quality of lands as their brothers, who are often given the best and largest portions. K-WAN urged Kiribati to consider amendment of the Natives Lands Ordinance to stop discrimination against women by providing for a fair distribution of land between men and women as spouses, issue and next-of-kin.<sup>31</sup>

16. AI expressed concern that citizenship laws in Kiribati were also discriminatory against women. For instance, the Citizenship Act 1979 (Cap 8A) allowed a man who applies for citizenship by naturalisation to include his wife and children in his application. The Act, however, did not allow for a woman applying for citizenship by naturalisation to include her husband and their children.<sup>32</sup> AI called on Kiribati to amend the citizenship section of the Constitution as well as the Citizenship Act to ensure equal citizenship rights for Kiribati women and their families.<sup>33</sup>

17. JS3 noted that there was no government school for persons with disabilities.<sup>34</sup> JS1 highlighted that the only school in the country that caters for children with disabilities or special learning needs was supported by the Red Cross. It added that the lack of adequate facilities for these children reflected their lack of attendance at school.<sup>35</sup> JS1 recommended that Kiribati pursue efforts to provide equal educational opportunities for children with disabilities, and take measures to train teachers to educate these children within regular schools.<sup>36</sup>

18. JS3 highlighted the need for women with disabilities to be considered as citizens who can contribute to the economy and carry out important roles and responsibilities.<sup>37</sup> It urged Kiribati to consider establishing institutions that would assist people living with disabilities in getting the vocational and life skills training necessary to get jobs. It also recommended providing a loan scheme for people with disabilities to start their own business.<sup>38</sup>

19. JS3 further recommended that all hospitals and medical clinics be designed for easy access by persons with disabilities, and that medical services ensure that persons with disabilities receive regular medical check-ups.<sup>39</sup>

## 2. Right to life, liberty and security of the person

20. AI noted that violence against women continued to be highly prevalent in Kiribati. According to AI, many of these instances, including sexual violence, are not reported because of social and cultural pressures from family members.<sup>40</sup> K-WAN referred to a 2008 study which shows that 68 per cent of women in Kiribati had experienced or, were experiencing, domestic violence. K-WAN highlighted that there is no special legislation to address domestic violence and cases are often treated as any other offence that warrants prosecution pursuant to the *Penal Code of Kiribati*.<sup>41</sup> AI recommended that Kiribati immediately undertake to enact appropriate legislation to address domestic violence after adequate consultation with relevant stakeholders.<sup>42</sup> K-WAN also made a recommendation in this regard. It further urged the Government to consider establishing more counseling centers for couples and shelters for victims of domestic violence; or, alternatively, to consider partnership with relevant NGO organizations in providing a sustainable shelter and service for victims of domestic violence.<sup>43</sup>

21. While AI was encouraged by the capacity-building for police in cooperation with the Pacific Prevention of Domestic Violence (PPDV) Programme and other Pacific regional initiatives, it stressed that domestic violence training should be mainstreamed within the police service, and that more awareness raising activities should be conducted in the communities.<sup>44</sup> AI called on the Government to equip the police with the relevant tools to effectively deal with domestic and sexual violence against women.<sup>45</sup>

22. Global Initiative to End All Corporal Punishment of Children (GIEACPC) recommended that Kiribati introduce legislation, as a matter of urgency, to prohibit all corporal punishment of children in the family, home and all other settings, including traditional justice systems.<sup>46</sup>

## 3. Administration of justice and the rule of law

23. According to K-WAN, the *Laws of Kiribati Act 1989* provide that in the absence of legislation, customary practices become the law.<sup>47</sup> AI added that Schedule 1s3(a)-(e) of the Act provide that customary law may be taken into account in a criminal case in determining the penalty for an offense. This provision allows the customary law of seeking forgiveness to affect criminal sentencing of an offender, thereby reducing the deterrent factor of tougher penalties. In many instances, this allows the offender in a sexual assault case to escape punishment.<sup>48</sup>

24. AI noted that there was no provision that called for mandatory prosecution of domestic violence offenses and recommended that Kiribati ensure that such a provision is included in the law.<sup>49</sup>

## 4. Right to privacy, marriage and family life

25. AI noted that in an affiliation proceeding under the Native Lands Ordinance where a man does not deny paternity of an ex-nuptial child, he will have automatic custodial rights of the child once the child is two years old. Consequently, women would not file for an affiliation case and thus forgo the necessary financial assistance (maintenance) to avoid losing their child. According to AI, there have been many cases where women have decided against asking for financial assistance from the father in order to keep the child.<sup>50</sup>

26. Joint Submission 2 (JS2) highlighted that Kiribati maintains criminal sanctions against sexual activity between consenting adults.<sup>51</sup> JS2 recommended that the Human Rights Council urge Kiribati to bring its legislation into conformity with its international human rights obligation by repealing all provisions which criminalise sexual activity between consenting adults of the same sex.<sup>52</sup>

**5. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life**

27. According to the Institute on Religion and Public Policy (IRPP), most religious groups report that the Government maintains a neutral role and provides adequate protections for religious freedom.<sup>53</sup> IRPP added that Kiribati operates a registration system for religious groups, but in practice, religious groups were not hindered in their operations if they do not register.<sup>54</sup>

28. IRPP indicated that the Constitution does not establish a state religion.<sup>55</sup> However, most governmental and social functions begin and end with an inter-denominational Christian prayer delivered by an ordained minister or other church official.<sup>56</sup> Overall, Kiribati respects religious freedom and there exist few reports of social discrimination based on religious affiliation.<sup>57</sup>

29. K-WAN noted that at the local council level, women's participation was limited. At the parliament level, there had been an increase in women members, but they were still a small minority. K-WAN urged the Government to explore ways to promote women's participation in Parliament and at local council levels and implement them as a matter of priority.<sup>58</sup>

**6. Right to work and to just and favourable conditions of work**

30. JS1 noted that there were a very limited number of job opportunities for young adults in Kiribati.<sup>59</sup>

31. K-WAN noted that the Employment Ordinance, as amended, provides that women shall not be employed between 6:00 pm and 6:00 am with exceptions for nursing, hotel or guesthouse employment, pharmacists and senior management jobs. K-WAN added that women are prohibited from being employed in manual labor jobs and mining. It noted that there has been an increase in the participation of women in the public workforce and in professional and senior posts within the Government. However, the bulk of women's employment is in the private and non-cash sectors, where maternity or compassionate leave, pay and working hours or days are dictated by the owners or managers.<sup>60</sup> K-WAN urged the Government to amend and improve the Employment Ordinance to allow women the right to work in any job they are qualified to work in; and to consider, as a matter of priority, imposing measures to address the employment conditions of women in the informal and private sectors.<sup>61</sup>

32. K-WAN also urged the Government to amend the Employment Ordinance and align the National Conditions of Service to grant maternity leave with full salary payment in acknowledgement of women's physical and biological difference with men.<sup>62</sup>

**7. Right to social security and to an adequate standard of living**

33. AI noted that lack of economic and employment opportunities in the outer islands, the impact of rising sea levels and the inadequate access to land, among others, had created overcrowding in the settlements around Tarawa Atoll, especially in Betio. According to AI, overcrowding has led to poor sanitation, inadequate housing facilities, water shortages, exposure to acute skin diseases and health problems.<sup>63</sup> AI recommended that Kiribati promote and protect the rights of people currently living in the informal settlements to accessing adequate health services, water and sanitation.<sup>64</sup>

34. According to EarthJustice, Kiribati has long been considered at high risk for experiencing negative impacts of climate change.<sup>65</sup> Over the past 20 years, Kiribati has experienced coastal erosion, sea level rise and more intense storm surges.<sup>66</sup> EarthJustice noted that: 1) drinking water has been contaminated by storm surges and sea level rise; 2)

saltwater is contaminating underground freshwater supplies and affecting the roots of plants; and 3) lack of adequate freshwater threatens access to water for consumption, sanitation, health, and an adequate standard of living.<sup>67</sup> Earth Justice recommended, *inter alia*, that the Human Rights Council encourage the international community to assist the government of Kiribati in its efforts to adapt to the effects of climate change.<sup>68</sup> It also recommended that the Human Rights Council encourage Kiribati to continue to expand efforts to provide citizens with information and education on the impacts of climate change, and to provide opportunities for public participation in decision-making concerning measures to mitigate and adapt to the harms that will result.<sup>69</sup>

35. K-WAN highlighted that women and children would be most vulnerable to the impacts of climate change because they have limited adaptive capacities due to prevailing social inequalities and ascribed roles.<sup>70</sup> It urged the Government to adhere to the minimum human rights standards provided under CEDAW in the implementation, mitigation and adaptation of national responses to climate change.<sup>71</sup>

## 8. Right to education

36. JS1 noted that primary and junior secondary education is compulsory and free in Kiribati. According to JS1, the Government is the sole provider of education for primary and junior secondary students. Government and Church schools provide education at senior secondary school level to those selected for further education, subject to payment of fees.<sup>72</sup>

37. JS1 highlighted that the Government's commitment to provide education for all children had been re-affirmed in the Ministry of Education's Strategic Plan for 2008-2011.<sup>73</sup> It recommended the allocation of sufficient resources and overseas aid money to fully implement the goals of the Strategic Plan within the Plan's time frame.<sup>74</sup>

38. JS1 expressed concern that enrolments both at junior and senior secondary school levels fell far short of the actual population of children in those age groups. According to JS1, in 2006 the net enrolment ratio at primary level was 96 per cent, while at junior and senior secondary levels was 79 per cent and 34 per cent respectively. JS1 highlighted that the irrelevancy of the curriculum is a major contributor to these low enrolment levels.<sup>75</sup> It also noted that young people who perform poorly or are disinterested in school are likely to drop out, while parents with limited cash resources who cannot see the relevance of formal education for their children's future are likely to withdraw them from school.<sup>76</sup> JS1 recommended that Kiribati enforce its law of compulsory education for all children of school age with the help of school-family liaison officers, or the like.<sup>77</sup>

39. JS1 indicated that the quality of education in Kiribati was reportedly low by regional standards.<sup>78</sup> In addition, the curriculum used in schools has not been reviewed for a long time. It focuses on narrow academic pathways linked to traditional jobs and does not encourage vocational and technical skills.<sup>79</sup> According to JS1, a comprehensive overhaul of the school curriculum, particularly at secondary level, is absolutely necessary. Also, curriculum purpose and content need to be reformulated to ensure that students are well prepared to take their place in society as contributing adults and are well equipped for the world of work—whether locally or overseas.<sup>80</sup> JS1 also recommended that Kiribati upgrade the conditions of the schools and make appropriate finances available for this to be done.<sup>81</sup>

40. JS1 noted that there continue to be many untrained teachers working in schools, which affects the overall quality of education.<sup>82</sup> According to JS1, Kiribati has only one Teachers' College (KTC) for training and upgrading the teaching profession.<sup>83</sup> JS1 further noted that only 20 per cent of students and 2 per cent of teachers were provided with adequate school furniture (tables, chairs, desks, cupboards, and blackboards). It added that raising literacy and numeracy standards in these conditions was a daunting task.<sup>84</sup> JS1 recommended that Kiribati make every effort to train and employ fully qualified teachers

for all the schools, ensuring the provision of sufficient resources for all schools and teachers, which in turn will enhance the education outcomes of the students.<sup>85</sup>

### **III. Achievements, best practices, challenges and constraints**

41. According to EarthJustice, one of the most serious threats to the human rights of the people of Kiribati is the vulnerability of their environment to the impacts of climate change. The threats confronting Kiribati illustrate how the right to an ecologically healthy environment is fundamental to guaranteeing other rights, such as the rights to life, food, water, health, and a means of subsistence.<sup>86</sup> IRPP noted that as a result of Kiribati's vulnerability to global warming, Kiribati natives are inclined to seek refuge in neighbouring countries.<sup>87</sup> EarthJustice added that Kiribati has ongoing resettlement schemes and is seeking negotiations with two Governments in the region to eventually relocate Kiribati's population.<sup>88</sup>

### **IV. Key national priorities, initiatives and commitments**

N/A

### **V. Capacity-building and technical assistance**

42. According to JS1, Kiribati's performance would be very much enhanced by greater involvement of OHCHR in the South Pacific region, through the provision of technical assistance on human rights implementation.<sup>89</sup>

## Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

*Civil society*

AI	Amnesty International*, London, United Kingdom;
EarthJustice	Earth Justice*, Oakland, USA;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;
IRPP	Institute on Religion and Public Policy, Washington D.C., USA;
JS1	FI* (Franciscans International), New York, USA; FMSI (Marist Foundation for International Solidarity), Roma, Italy; MOSC (Marist Oceania Solidarity Commission);
JS2	ARC International, Geneva, Switzerland; ILGA (International Lesbian and Gay Association), Brussels, Belgium; ILGA-Europe* (European Region of the International Lesbian and Gay Association), Brussels, Belgium;
JS3	TTM (Te Toa Matoa) and the School for the Disabled, Kiribati;
K-WAN	Kiribati Women Activists Network, Kiribati;

<sup>2</sup> AI para. 7; K-WAN p. 1

<sup>3</sup> JS3 p. 3

<sup>4</sup> AI p.5. See also JS1 para. 5 and p. 6; KWAN p. 1

<sup>5</sup> JS1 p. 6

<sup>6</sup> K-WAN p. 1

<sup>7</sup> AI para. 7

<sup>8</sup> JS1 p. 2

<sup>9</sup> JS3 p. 2

<sup>10</sup> K-WAN p. 2

<sup>11</sup> AI para. 3

<sup>12</sup> AI p.5

<sup>13</sup> JS3 p. 3

<sup>14</sup> JS3 p. 2

<sup>15</sup> K-WAN p. 5

<sup>16</sup> JS3 p. 5

<sup>17</sup> JS1 para. 7 and p. 6

<sup>18</sup> JS1 p. 6

<sup>19</sup> JS1 paras. 22-23. See also JS1 p. 6

<sup>20</sup> JS3 p. 2

<sup>21</sup> JS3 p. 1

<sup>22</sup> JS3 p. 1

<sup>23</sup> JS3 p. 3

<sup>24</sup> K-WAN p. 1

<sup>25</sup> JS3 p. 3

<sup>26</sup> JS1 p. 6

<sup>27</sup> AI para. 3

<sup>28</sup> AI para. 3

<sup>29</sup> K-WAN para. 5

<sup>30</sup> AI para. 5

<sup>31</sup> K-WAN p. 3

<sup>32</sup> AI para. 1

<sup>33</sup> AI p.5

<sup>34</sup> JS3 p.3

<sup>35</sup> JS1 para. 21

<sup>36</sup> JS1 p. 6

<sup>37</sup> JS3 p. 4-5

<sup>38</sup> JS3 p. 4

<sup>39</sup> JS3 p. 4

<sup>40</sup> AI para. 10

- <sup>41</sup> K-WAN p. 4
- <sup>42</sup> AI p. 5
- <sup>43</sup> K-WAN p. 4
- <sup>44</sup> AI para. 13
- <sup>45</sup> AI p. 5
- <sup>46</sup> GIEACPC p. 1
- <sup>47</sup> K-WAN para. 4
- <sup>48</sup> AI para. 12
- <sup>49</sup> AI para. 10 and p.5
- <sup>50</sup> AI para. 4
- <sup>51</sup> JS2 p. 1
- <sup>52</sup> JS2 p. 2
- <sup>53</sup> IRPP para. 12
- <sup>54</sup> IRPP para. 8
- <sup>55</sup> IRPP para. 5
- <sup>56</sup> IRPP para. 12
- <sup>57</sup> IRPP p. 3
- <sup>58</sup> K-WAN para. 5
- <sup>59</sup> JS1 para. 13
- <sup>60</sup> K-WAN para. 6
- <sup>61</sup> K-WAN para. 6
- <sup>62</sup> K-WAN para. 6
- <sup>63</sup> AI paras. 8-9
- <sup>64</sup> AI p. 5
- <sup>65</sup> EarthJustice para. 4
- <sup>66</sup> EarthJustice para. 6
- <sup>67</sup> EarthJustice para. 8
- <sup>68</sup> EarthJustice para. 16
- <sup>69</sup> Earthjustice para. 15. See also K-WAN p. 5
- <sup>70</sup> K-WAN para. 12
- <sup>71</sup> K-WAN p. 5
- <sup>72</sup> JS1 para. 10
- <sup>73</sup> JS1 para. 11
- <sup>74</sup> JS1 p. 6
- <sup>75</sup> JS1 paras. 17-18
- <sup>76</sup> JS1 para. 14
- <sup>77</sup> JS1 p. 6
- <sup>78</sup> JS1 para. 13
- <sup>79</sup> JS1 para. 14
- <sup>80</sup> JS1 para. 16
- <sup>81</sup> JS1 para. 27
- <sup>82</sup> JS1 para. 24
- <sup>83</sup> JS1 paras. 25-26
- <sup>84</sup> JS1 para. 27
- <sup>85</sup> JS1 p. 6
- <sup>86</sup> EarthJustice para. 13
- <sup>87</sup> IRPP para. 13
- <sup>88</sup> EarthJustice paras. 10-11
- <sup>89</sup> JS1 para. 8