

HUMAN RIGHTS GUIDE FOR PANEL MAGISTRATES **KIRIBATI FAMILY PEACE ACT 2014**



PEOPLE-CENTRED JUSTICE: PUTTING OURSELVES IN THE SHOES OF THE PEOPLE NEEDING OUR HELP



**Easy to use
service**



**Helpful and
patient**



**Fast process,
clear outcome**



**Protect human
rights**



**Reliable and
professional**



**Clear reasons
given,
following the
law**



**Fair process:
All sides heard
and fair
outcome**

**TE MWAKURI IAAN TE ETI AO TE RIAI AE BOOBOTO IBUKIA
AOMATA: KARINAKIRA N AIA KAU**



**Te tiweti ae
bebeta
kabonganana**



**Ibuobuoki ao
nano rinano**



**Te kawai ae
tawe, te reke
ae e matata**



**Kamanoa
Inaomatan te
Aomata**



**Te kawai ae
onimakinaki &
mwakuriaki
raoi**



**E anga bukina
ae e matata, n
ira te tua**



**Te kawai ae e aki
tabeitera: a
ongoraeaki
uaitera ao te reke
ae e koaua**

RIGHTS OF VICTIMS: INCLUDING SURVIVORS OF FAMILY OR SEXUAL VIOLENCE (CAN BE ANY MEMBER OF THE FAMILY)

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985



**Fast, fair,
cheap and
accessible
process**



**Treated with
compassion
and respect**



**Safety:
Protected from
physical or
psychological
attack**



**Informed of
their rights
and role**



**Supported so
they can perform
their role in the
process**



**Provided with
regular
updates**



**Reduce trauma
of the process**

INAOMATAN ARE E A TIA N REKE N TE KANGANGA: N IKOTAKI MA NAAKE A TIA N RINANOA TE MWENGABUAKA N TE MWEENGA AO TE TANGAKOAKI



Kwai aika a
tawe, aki
tabeitera,
boraoi ao ni
kai reke



Mwakuri ma te
aakoaki ao te
karineaki



Maurim:
Kamanoaki
man kanganga
aika ana roota
te rabwata ao
te kaantaniga



Kaongoakiia
inaomataia ao
tabeia



Boutokaki bwa
aonga ni karaoi
aia itera inanon
te waaki



Anganaki
kanoan te
bong n te tai
teuana ma
teuana



Kabebetean
kanganan te
waaki

RIGHTS OF DEFENDANTS

Kiribati Constitution, Public Legal Services Act 2018



**Fair trial:
Presumption of
innocence**

Art 10 (2)(a)



**Right to silence, non-
self-incrimination**

Art 10 (7)



**Aware of charge,
evidence and case
against them**

Art 10 (2)(b)



**Evidence of
confessions only
admissible if
voluntary, not
coerced through
violence or threats**

Art 7(1)



**Sentence
proportionate to
crime: Takes account
of mitigating or
aggravating factors**



**Right to legal
representation
and legal aid if
poor**

Art 10(2)(c)(d)(e)



**Right to reasoned
judgment and a
copy**



**Right to be present
and bring own
witnesses and
examine other sides**

Art 10(2)(e)(f)



**Case dealt with in
a reasonable time**

Art 5(2)(b)

INAOMATAN TE TIA KAEKA

Kiribati Constitution, Public Legal Services Act 2018



Ena booraoi
ongoraian am case:
koaki reke n te bure
nuaa ko kuneaki ni
bure

Art 10 (2)(a)



Inaomatam n aki
taetae

Art 10 (7)



Kakoaua ibukin
butimwaeen am bure e ti
kona n kabonganaki
ngkana ko anga ma
nanom ao koaki
taumatoaki bwa ko
angaa

Art 10 (2)(b)



Tuaam ena boraoi ma
te tiati: Ana katineaki
buokan ao bwakan am
keiti

Art 7(1)



Inaomatam nakon am
moti



Ko oota n te tiati
ae kaitarako

Art 10(2)(c)(d)(e)



Inaomatam n
weteam am tia
kakoaua ao n kaekai
ana tia kakoaua ti
Tia Tang



Kabebetea am
kanganga inanon
mwakuriana

Art 5(2)(b)

RIGHTS OF CHILDREN



Best interests of the child always primary factor in any decision



Must have their own lawyer



Child is under 18 years old at time of incident



To be diverted from criminal prosecution where possible



Right to be heard and their views given weight



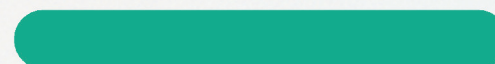
Detained or imprisoned only as last resort and for shortest time



Safe from violence including at home



Process adapted so child can understand, feel safe



Protect privacy and give second chance



Prioritise and accelerate case



INAOMATAN TE ATAEI



Te moti ena aitara ma
mwengaraoi te Ataei



Ena riai n iai ana
rooia



18 te ririki rikaaki
ngke e riki te
kanganga



Ena aaki kaungaaki
kateaia n te Bowi ni
Kaburebure



Inaomataia bwa ana
taetae ao ena
rinanoaki aia taratara



Kabureaia bon te
kabanea n bwai, ma
ana ti kabureaki ke
tauaki n tai ae
uarereke



Kamanoaki man te
iowawa: n te mwenga
naba



E kaotaki kawaina
nako te Ataei e
aoria n mano ao oota



Kamanoa
rongorongon te
Ataein ao nano rinano
nakoina



Moanibwaia aia
keti ao katawea

RIGHTS OF PEOPLE WITH A DISABILITY



Dignity and respect: Same rights as others



Need flexible, creative and sensitive approach



Right to access, understand, participate, exercise rights, as others do



Reasonable accommodations made to ensure access and participation



Decisions without bias, discrimination or prejudice



Right to bring cases, be heard and have rights protected



Mental health or disability taken into account in process and outcome

INAOMATAIA AOMATA AIKA MWAUKU



**Karineaki:
Titebo ma
Inaomataia
Aomata**



**Kona amarau
nakoia**



**Ana riai n oota,
iraki ao
kamwakuriaki
Inaomataia**



**Ena tobwaki
kainanoia n te
aro are ana kona
n rinakoa
Inaomataia**



**Tenan moti
anaaki inanonano
ke bwainingare**



**Inaomataia n
karina aia keiti,
n ongoraeaki ao
kamanoaki
Inaomataia**



**Toaraia ao
Aorakin te
lango ena riai
n rinanoaki n
te moti**

Meets definition of domestic relationship (s5)

Spouse

Includes current, former, de facto ,
has a child with (s5)

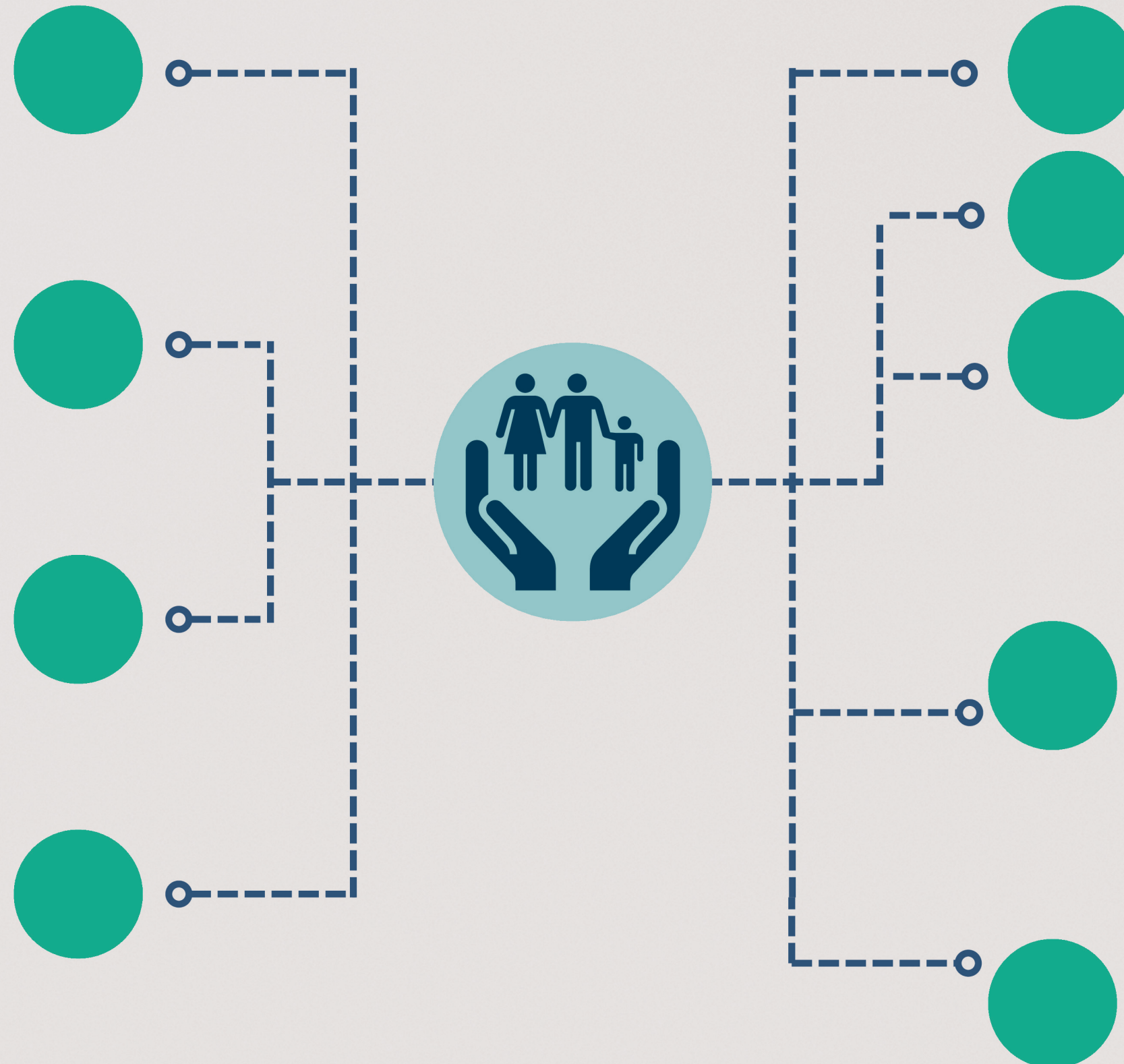
Child

Includes biological, adopted, other
person with parental responsibility

**Share or recently lived
in the same household**

**Dependent in
household**

FAMILY PEACE ACT CHECK:



Meets definition of family violence (s4)

Physical abuse

Sexual abuse

Mental abuse

Pattern of degrading or humiliating conduct including repeated insults, manipulating, making the victim feel guilty or ashamed, repeated threats or obsessive jealousy invading victims privacy, liberty, integrity or security

Economic abuse

Deprivation of economic resources entitled to or needed for household necessities and dependents, including payment of rent; selling resources/assets needed for family, damaging joint property

Can be single acts and patterns of behaviour

KIRIBATI FAMILY PEACE ACT ACT 2014: PROVISIONS FOR PANEL MAGISTRATES



Applications and hearings for Emergency Orders should be decided same day

s16



Low evidence threshold: balance of probabilities or lower if risk is great



Can hear applications for Emergency or Temporary Protection Orders (Single Magistrate Final Orders)



Duration: Emergency Order 28 days, Temporary Order 90 days, Final, until altered

s16-18



Application can be made verbally, by telephone, text and court clerk must help write application form

s12



Emergency and Temporary can be applied and granted exparte, without the respondent present

s11,16,17



Court can initiate and grant Protection Order where related in criminal and family cases

s13

TABEM IAAN TE RAU N TE MWENGA ACT



Te tang ao te
bubuti e riai n
ongoraeaki n
te bong naba
anne

s16



Karinanoan te
kainibaire
ibukin te
kakoaua: te
kainibaire iaan
te Bowi ni
Katei ke ni
bwaka riki
ngkana e
korakora te
kanganga



Te kona n
ongorai bubuti
ibukin te *Order*
ibukin te
kamanomano
ae tawe (SM - te
kabanea n
Order)



Imarenaia
;taanga;: aika tia
n iein (n te katei,
iraorao) ataei
(oin te nati,
tobwaaki n te
katei ke te tua)
Kabae, aika
maaka n teuana
te auti

s16-18



Te bubuti e kona
n karaoaki n te
taetae, n te
tareboon, te
koroboki ao te
kiraaka n te bowi
ena buokiko n
karina am bubuti
iaon te booma

s12



Kamanomano
ae e tawe a
kona ni
karaoaki n
akean te tia
kaeka

s11,16,17



Te Bowi e kona
ni waaki ao n
anga te *order* n
te
kamanomano n
keiti ake a
irekereke ma
te kaburebure
ao te utu

s13

KIRIBATI FAMILY PEACE ACT ACT 2014: PROVISIONS FOR PANEL MAGISTRATES



To grant, court must be satisfied respondent is using, or has used, domestic violence against complainant or dependents and order is necessary for their protection

s14



Court must take into account need to ensure complainant protected from family violence, including accommodation needs of complainant and children

s14



Court must not take into account custom that may put applicant or child at risk of family violence

s14(3)



Court must take into account the seriousness, patterns of violence and impacts including on children

s14(5)(6)



Conditions may include orders for weapons, property, emergency maintenance, custody and residence in family home even if rented/belongs to respondent

s19, s21, s20, s23, s22, s20



Court must keep register of all protection applications received, orders granted and reasons if refused

s12



Court to arrange police to immediately serve order and explain to respondent

s14

TABEM IAAN TE RAUN N TE MWENGA ACT



Ngkana e na anga,
te Bowi e riai n
nanoraoi bwa te
tia kaeka e
kamanenaa. ke n
tia ni kamanena
te
kamwengabuak
inanon te utu ni
kaitara te tia tang
ke naake a katine
iaana ao te order
e kainnanoaki
ibukin kamanoaia

s14



Te Bowi e riai n
taraa
kainnanoan
kamanoan te tia
tang man
kamwengabuaka
inanon te utu, ao
n tarai
kainnanon te tia
tang ao ataei a
mano iai

s14



Te Bowi e riai n
aki taraai katei
ake a na kona ni
karekea te
kamwengabuak
a inanon te utu
nakon te tia
bubuti ke te
teei

s14(3)



Te Bowi ena riai n
taara korakoran,
anuan te iowawa
ao mwiia n
irekereke naba
nakia ataei

s14(5)(6)



Orders a mwanewei
kainibaire aika a
tabangaki ao ni
kona ni mwanewi
orders ibukin
bwaain ni kaikoaki,
te tabo ni maeka,
Te oota ena kona n
iri ma kainibaire ao
n iri ma te onobwai
ae karina nakon te
auti e ngae ngke
tangoaki/ana auti
te Tia Tang

s19, s21, s20, s23,
s22, s20



Te Bowi ena
taua katoton
taian bubuti
iaon te
kamanomano,
oota iaon te
kamanomano
aika
butimwaeaki ao
aika aaki ma
bukina

s12



Te Bowi ena
riai n reitaki
nakoia
Bureitiman
bwa ana
kabuta te oota
nakon te Tia
Kaeka ao ni
kabwarabwara

s14

