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Sources of Law in the South Pacific - Kiribati

KIRIBATI

Introduction - Pre-Independence Laws & Post-Independence Laws / Consolidated Legislation / Legislation held by USP / Government Gazette / Law Reports / Unreported Cases / Collected Materials

KIRIBATI

INTRODUCTION

by Professor Don Paterson

PRE-INDEPENDENCE

Before Kiribati, which was then called Gilbert Islands, attained independence on 12 July 1979, it had been part of the British protectorate 189 later the British colony of Gilbert and Ellice Islands 1916-1975, and then from 1975-1979 it was the separate British colony of Gilbert Islands.

Accordingly before independence its laws comprised:

- **British Proclamations or Orders in Council** - made by the Queen under her prerogative powers applying to the Gilbert and Ellice Islands protectorate or colony, and to the Gilbert Islands colony e.g. Gilbert and Ellice Islands Order 1916.
- **British Acts of Parliament**
 - applying as part of "the substance of the laws for the time being in force in England" until 1 January 1961 (s.20 Pacific Order in Council 1893);
 - "statutes of general application in force in England on the 1st day of January 1961 so far as appropriate to the circumstances of the country" (s.15 Western Pacific (Courts) Order 1961);
 - British statutes applying to the Gilbert and Ellice protectorate or colony, or Gilbert Islands colony, in accordance with their 1967 (UK), Nuclear Installations Act 1965 (UK);
- **British subsidiary legislation**
 - applying as part of "the substance of the laws for the time being in force in England" until 1 January 1961 (s.20 Pacific Order in Council 1893);
 - "statutes of general application in force in England on the 1st day of January 1961" so far as appropriate to the circumstances of the country (s.15 Western Pacific (Courts) Order 1961).
 - British subsidiary legislation applying to the Gilbert and Ellice Islands protectorate or colony or to the Gilbert Islands colony
 - Regulation 1965; Emergency Powers Order in Council 1939.
- **Queen's (King's) Regulations** - made by the High Commissioner of the Western Pacific, 1893-1916 (s.108 Pacific Order in Council 1);
- **Ordinances** made by
 - High Commissioner of Western Pacific, 1916-1972 (cl. 8 Gilbert and Ellice Islands Order in Council 1915);
 - Resident Commissioner with the advice and consent of the Advisory Council; 1963-1967, later the Governing Council

1967-1974;

- **Subsidiary legislation** - made under the above King's Regulations and Ordinances.
 - **Custom**
 - for determination of boundaries of, and title to, customary land (s.3 Native Lands Commission Ordinance 1922, s.58 Magistrates Court Ordinance 1978).
 - for determination of civil and criminal proceedings in Island Courts 1965-1978, and in Magistrate's Courts 1978-1979
- 1978).

POST-INDEPENDENCE

When Kiribati attained independence on 12 July 1979 by the Kiribati Independence Order 1979 made by the British Privy Council, it was pro a written Constitution which was stated to be the supreme law and a new elected legislative body but the existing laws were retained until rep the legislative body. Ten years later the laws of Kiribati Act 1989 was enacted to define the laws of the country, and to provide for the extend application of customary law.

Consequently after independence the laws of Kiribati comprise:

- **Constitution of Kiribati** - which is stated to be the supreme law.
- **English common law and equity** - 1893-1961, as part of "the substance of the law for the time being in force in England (s.20 Pacific Council 1893) and, 1961-1979, as "the substance of the English common law and doctrines of equity" (s15(1)(b) Western Pacific (Cou 1961) so far as appropriate to the circumstances of the country.
- **Acts of the Maneaba ni Maungatabu** - enacted with the assent of the President (s.66 Constitution);
- **Subsidiary legislation** - made under Acts of the Maneaba ni Maungatabu.

- **Customary law**

- for the determination of boundaries of, and titles to, customary land (s.58 Magistrates Ordinance 1978);

- repugnant to natural justice, equity and conscience or inconsistent with any Ordinance or other law for the time being in force in the country (s.42(2) Magistrate's Courts Ordinance 1978);

- for all civil or criminal proceedings in all courts except to the extent that it is inconsistent with the Constitution, or legislation or subsidiary legislation in force in Kiribati (s.5 Laws of Kiribati Act 1989).

- **Common law and equity**

- Kiribati, or with customary law or inappropriate to the circumstances of the country (s.15(1)(b) Western Pacific (Courts) Order 1961; s. Kiribati Act 1989).

- **British Acts of Parliament, Orders of the Queen in Council and subsidiary legislation** - in force in Kiribati immediately before 12 until repealed by Act of the Maneaba ni Maungatabu (s.7 Laws of Kiribati Act 1989).

- **Queen's (King's) Regulations** made by the High Commissioner of the Western Pacific 1893-1916, and **Ordinances** made by the High Commissioner of the Western Pacific 1916-1978, by the Resident Commissioner 1963-1974, and by the Governor 1974-1979 and **subs legislation** made under such Regulations and Ordinances until repealed by an Act of the Maneaba ni Maungatabu (s.7 Laws of Kiribati

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For more information on this topic see *Introduction to South Pacific Law* (1999) Cavendish - by J. Corrin Care, T. Newton & D. Paterson Available from all good legal book shops, at [Stop Press](#) in Vanuatu or by ordering from [Cavendish](#).

Consolidated Legislation

Title: **Laws of Kiribati (1980)**

Date published: 1980

Publisher: Eyre & Spottiswoode Ltd, 2 Serjeant's Inn, London

End date: 1st January 1977

No. of volumes: 3

Link to index of acts in the Consolidation:	Kiribati - Alphabetical Index - Consolidation Chronological Index - Consolidation
Link to legislation available in full text:	Kiribati - Full Text Legislation

Legislation held by USP

Consolidated Laws:

1. Laws of the Gilbert & Ellice Islands Colony (1952)
2. Laws of the Gilbert & Ellice Islands (1973)
3. Laws of Kiribati (1980)

Bound volumes: -

Other Acts: 1979 - 1999 (incomplete)

Links to index of unbound acts held by USP:	Kiribati - Index to Unbound Acts
Link to legislation available in full text:	Kiribati - Full Text Legislation

Government Gazette

Title:

Publisher:

Law Reports

Title: Gilbert Islands Law Reports*

Period covered: 1977

Publisher:

No. of volumes: 1

Citation: GILR

***Note:** Also contains a digest of cases in prior years and some important decisions of the Fiji Courts given in appeals from the High Court of the Western Pacific sitting in the Gilbert Islands.

Title: The Kiribati Law Reports*

Period covered: 1979

Publisher: Edited by JA O'Brien Quinn Q.C., formerly Chief Justice of Kiribati and published by Authority

No. of volumes: 1

Citation: Kir. L.R.

***Note:** Also contains additional cases and digest of cases in prior years.

Link to index of reported judgments:	Kiribati - Index to Gilbert Islands Law Reports
Link to cases available in full text:	Kiribati - Index to Kiribati Law Reports Kiribati - Full Text Cases

Unreported Cases

Bound volumes: Kiribati Court of Appeal Decisions (1987-1990)
2 volumes.
Vol. 1 (1987-1989); Vol. 2 (1989-1990)

Link to index of unreported judgments in bound volumes:	Kiribati - Index to Unreported Cases - Bound Volu
Link to cases available in full text:	Kiribati - Full Text Cases

Collected Materials

- **Laws of the Gilbert & Ellice Islands Colony (1952)**
C. F. Roworth Ltd, 88 Fetter Lane, London, E.C. 4.
End date: 1st January 1952
1 volume (2 parts)
- **Laws of the Gilbert & Ellice Islands (1973)**
Eyre & Spottiswoode Ltd, 2 Serjeant's Inn, London.
End date: 1st July 1973
3 volumes.
- **Gilbert Islands Royal Instructions 1975**
- **Gilbert and Ellice Islands Ordinances 1978**

To order a copy of any of the documents listed above please contact the Librarian Peter Murgatroyd at murgatroyd_p@vanuatu.usp.ac.fj



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