

Terms of Reference

Post title:	Judge of the High Court
Project title:	Supporting Kiribati's Civil and Criminal Justice System
Organisational Section/ Unit:	The Judiciary of Kiribati/ The High Court of Kiribati
Duty Station:	High Court building, Tarawa, Kiribati
Responsible to:	Chief Justice of Kiribati
Proposed contract period	1 August 2022 - 30 July 2023

1. Summary:

The Commonwealth Secretariat is assisting the Republic of Kiribati to recruit a High Court Judge on a 12-month fixed term contract. Kiribati's judiciary is made up of Magistrates' Courts, a High Court and a Court of Appeal. A limited right of appeal to the Privy Council exists in certain matters. The High Court of Kiribati is established under Chapter VI, section 80 of the Constitution and has both original and appellate jurisdiction. Under the Constitution judges of the High Court comprise the Chief Justice and "such number of other judges" as may be prescribed.

There are two court houses for the High Court, one of which is used by the Court of Appeal when sitting and by magistrates at any other time.

Kiribati is struggling with a high case backlog in civil and criminal matters - a situation that has been worsened by the COVID-19 pandemic. Kiribati, which is composed of 33 islands stretching over 1.3 million square miles has a population of circa 107,000.

2. Purpose

The successful candidate is expected to assist Kiribati to reduce its case backlogs and to contribute to the development and/or implementation of strategies to strengthen its civil and criminal justice system.

3. Scope of work

Under the supervision of the Chief Justice, the assigned Judge of the High Court shall:

- Adjudicate fairly and in a timely manner over all allocated criminal and civil matters;
- Interpret and apply relevant laws and precedents to matters before them and to produce written judgments;
- Assist in the development and implementation of strategies to reduce case backlogs and strengthen Kiribati civil and criminal justice system; and
- Perform any other function or scope of work assigned to or required by the Chief Justice.

4. Deliverables

Key activities	Deliverables/ outputs	Timeframe
<ul style="list-style-type: none"> Adjudicate over and produce written judgements in allocated civil and criminal matters. Attend to all other incidental issues arising from the role of a High Court Judge in Kiribati. Determine and pronounce appropriate sentences in criminal matters. 	<ul style="list-style-type: none"> High quality judgments on matters presided over. Detailed report at the end of the 12-month period outlining, inter alia, the number and types of matters presided, judgments produced, and initiatives undertaken and/or recommendations made regarding the strengthening of Kiribati's civil and criminal justice system. 	12 months

5. Experience and Qualifications

The applicant should possess the following qualifications and experience to be considered for this post:

Legal Knowledge and Experience

- Be qualified to practice as an attorney-at-law in Kiribati or as an attorney, advocate or barrister in a Commonwealth jurisdiction and possessing over five years' post qualification experience.
- Previous experience as a judge in a court with unlimited jurisdiction in a Commonwealth country is desirable.
- A high level of understanding of English common law is essential.
- Knowledge and experience of applying customary law is desirable.
- Comprehensive knowledge of relevant rules of evidence, civil and criminal procedure rules, and practice directions.
- Experience of supporting the strengthening of justice systems, including through the adoption of electronic case management systems, designing changes to rules of procedure and practice directions is desirable.

6. Skills and Abilities

- Sound judgement** • Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions, including: (a) making timely and appropriate decisions; (b) exercising sound judgement and common sense; (c) reaching clear, reasoned decisions objectively based on relevant law and findings of fact; (d) demonstrating integrity and independence of mind; and (e) not exercising bias or prejudice.
- Intellectual and analytical ability** • Detailed knowledge of a relevant jurisdiction, law and practice and demonstrates an ability and willingness to learn and develop professionally. Ability to weigh relevant issues and matters of law and to formulate them for reasoned and coherent presentation.
- Managing work efficiently** • Works effectively and plans to make the best use of available resources, including (a) running trials/hearings effectively to facilitate fair,

timely, and efficient conclusions; (b) prioritising effectively and minimising delays and irrelevancies; (c) showing ability to work at speed and under pressure; (d) dealing effectively with case management; (e) undertaking necessary preparatory work.

- (iv) **Working with Others** • Conducts proceedings appropriately, values diversity and shows empathy and sensitivity in building relationships, including (a) managing hearings through fair and objective direction and intervention; (b) possessing an awareness of the diversity of the communities which the courts serve; (c) working constructively with others to encourage co-operation and collaboration when needed; (d) treating people with respect, sensitivity and in a fair manner without discrimination and ensuring the requirements of those with differing needs are properly met; (e) maintaining effective relationships, demonstrating the appropriate balance between formality and informality in hearings and with all contacts; (f) ability to recognise and deal appropriately with actual or potential conflicts of interest.
- (v) **Communication and listening skills** • Demonstrates good oral and written communication skills and authority, including: (a) ability to communicate effectively with all types of court users including lay people involved in court proceedings; (b) ability to establish authority and inspire respect and confidence; (c) ability to remain calm and authoritative even when challenged; (d) ability to explain relevant legal or procedural information in language that is succinct, clear and readily understood by all; (e) ability to ask clear, concise, relevant and understandable questions; (f) willingness to listen with patience and courtesy.
- (vi) **Leadership** • willingness and ability to improve judicial performance across the wider justice system to meet existing and future needs.

7. Personal Qualities

- (i) **Integrity** • Has a history of honesty, discretion and plain dealing with professional colleagues, clients and the courts; Possesses independence of mind and moral courage, is prepared to take and maintain unpopular decisions when necessary. Displays discretion as to the publication of any personal views on issues whether in writing or orally or video graphically on social media or any media platform or forum.
- (ii) **Fairness** • Is open-minded and objective, with the ability to recognize and personal prejudices and to set them aside.
- (iii) **Impartiality** • Can deal impartially with all matters, which come before them and ensure that all those who appear before them have an opportunity for their cases to be clearly presented and considered as fully and dispassionately as possible.
- (iv) **Understanding of People and Society** • Has knowledge and understanding of, and respect for people from all social backgrounds. Is sensitive to the influence of different ethnic and cultural backgrounds on the attitudes and behaviour of people whom they encounter in the course of their work.

8. Implementation arrangements

- (i) **Judges** of the High Court preside over hearings at the High Court Building in Tarawa, Kiribati.
- (ii) The Government of Kiribati will make the necessary arrangements for the proper security, and travel arrangements of the judge while they are resident in Kiribati.

(iii) The judge is required to liaise, communicate, and report to the Chief Justice of Kiribati.

9. Remuneration

The Judge will be remunerated in accordance with arrangements made between the Commonwealth Secretariat as to emoluments and allowances. The Government of Kiribati will provide the Judge with country transportation and the services of a driver and a security officer.

10. Reporting

The Judge shall submit to the Chief Justice periodic reports on the matters over which they preside, judgments delivered, and sentences delivered. At the end of the term, the judge shall provide to the Chief Justice a report on assigned matters, which could not be completed due to the expiration of time or assigned matters where the trial process has been completed with only a judgement outstanding, if any.