



Convention on the Rights of the Child

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Consideration of reports submitted by States parties under article 44 of the Convention

Initial reports of States parties due in 1999

Cook Islands*

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I. Introduction

1. The Cook Islands acceded to the Convention on the Rights of the Child on 6 June 1997 after the Ministry of Foreign Affairs and Immigration completed a comprehensive review of existing legislation to ensure that Cook Islands law was in compliance with its provisions. A number of legislative changes were recommended and three reservations to articles 2, 10 and 37 and three declarations (a general declaration on the non-direct effect of the Convention in the Cook Islands; article 2, paragraph 1; and a general declaration regarding articles 12–16) were entered.
2. This is the Cook Islands initial report on the Convention on the Rights of the Child since it acceded to the Convention. It covers the period after accession to 31 December 2001.
3. The purpose of the report is to present a comprehensive description of the measures it has adopted — legal, economic and social — to give effect to the Convention in the Cook Islands.
4. The Cook Islands prepared this report based on those reports submitted to the Committee on the Rights of the Child by other Pacific Island States, in particular, Fiji, the Federated States of Micronesia and New Zealand. It also used ‘A Sourcebook for Reporting under the Convention on the Rights of the Child’ by Vitit Muntarbhorn and the ‘Implementation Handbook for the Convention on the Rights of the Child’ compiled by UNICEF and the guidelines adopted by the Committee on 15 October 1991, contained in document CRC/C/5.

II. Executive summary

5. Although a very small Pacific Island State, the development of the Cook Islands and its people is subject to similar risks, problems and obstacles as those faced by many, much larger States. Children in particular, have received much attention with regard to health and educational concerns.
6. In 1996, the Cook Islands set out on a programme of economic reforms as a response to the problems of budget imbalance, debt and weaknesses in the structure of the economy. The programme aimed to firm up the economy and achieve sustainable growth. It had a three-pronged strategy, which comprised public sector reform, private sector-led growth and to achieve economic sustainability and social equity.
7. The reforms called for a basic change in the role of the State from direct intervention to making policy and rules. The State would privatize all its production functions and in line with its reduced role, reduce the size of its work force to remove excess labour and improve efficiency. It was envisaged that the new fiscal regime would have more cost recovery, budget surpluses and good debt control. In line with the State’s reduced role, the reforms would transfer a large measure of decision-making to local communities.
8. The economic reforms instituted by Government have had a major impact on families. Provision of basic social services by Government Ministries has been streamlined due to budget cuts and staff adjustments have been made. Another major impact of the reforms was the large-scale emigration of those public servants made redundant to Australia and New Zealand. However, the Government has continued to ensure that the family unit and, in particular, children continue to be supported as much as possible. Government has reiterated in its Budget statements that it is committed to:

- Providing all Cook Islanders with access to quality core social services, especially in health and education along with welfare, infrastructure, law and order
- Strengthening the social institutions that contribute to the physical, intellectual, spiritual, cultural, traditional and economic well-being of the people

9. Respect for fundamental human rights is enshrined in the Constitution as well as incorporated into other legislation of the Cook Islands. As a nation comprising numerous small islands, respect for fundamental human rights is crucial to the harmonious existence and sustainable development of its people within small, sometimes subsistence communities dependent on the skills and cooperation of their members.

10. Underpinning all domestic actions in relation to the Convention are both relevant international treaties binding on the Cook Islands as well as the provisions of the Convention. These are primarily set out in Part IVA of the Cook Islands Constitution, "Fundamental Human Rights and Freedoms", the text of the article being reproduced in article 2 below.

11. A Situation Analysis of Women and Children in the Cook Islands was completed in 1998 and was sponsored by UNICEF Pacific. This provided the first analysis of issues about women and children that needed to be addressed in the Cook Islands.

12. Having acceded to the Convention, the Government as well as a number of non-governmental organizations has been active in keeping the public informed about the Convention.

13. Public workshops have been held involving a wide cross-section of the community including traditional leaders, village leaders, non-government organizations, parents, children and representatives from Government ministries.

14. Education is compulsory for all children aged 5–15 years. Primary education is free and accessible to all children in the Cook Islands.

15. Non-government organizations (NGOs) play a constructive and complementary role in the Cook Islands by highlighting the shortfalls with respect to service delivery by Government agencies to children and providing where possible assistance to remedy the situation. There are several NGOs active in promoting child rights in the Cook Islands.

16. The development of a National Policy for Youth (ages 15–34 years) began in 2000 with financial assistance from the Commonwealth Secretariat and the Secretariat of the Pacific Community. The purpose of the Youth Policy is to facilitate concerted efforts by all stakeholders towards youth development issues. It also intends to encourage a multi-sectoral approach in development appropriate strategies to assist youth meet their needs. Consultations were held widely to assist in the compilation of the Youth Policy.

17. Public services and physical infrastructure are less developed in the Outer Islands and children in these areas are to some extent disadvantaged. This includes equal access to quality health care and a good standard of education. These will be discussed under the relevant articles below.

18. Fewer students in the Outer Islands continue their education beyond two years at secondary school and few are able to compete with Rarotonga based students for tertiary scholarships to overseas tertiary institutions as a result of limited subjects taught and lack of qualified teachers in those subjects.

19. The incidence of crimes against children in the Cook Islands is impossible to determine for many cases are never reported to authorities. The number of probation reports ordered by the Court for persons 16 years and over are provided in the Report, however, these are mainly cases on Rarotonga. The security and safety issues of the Outer Islands are

slightly different from Rarotonga, particularly on the smaller islands where community intervention in burglary and theft incidences is dominant over formal reporting.

20. The Community Police Unit has been implementing Law Related Education Programmes in the schools with the cooperation of the teachers in the schools. Police see participation in education as an integral part of current approaches to policing which place greater emphasis on community involvement.

21. Cook Islands values condemn the neglect and abuse of children and there would appear to be a need for additional measures relating to the administration of relevant Acts and other measures to address aspects of neglect and abuse.

22. The health of Cook Islands children compares favourably with other children in the region. However, indicators show that in the previous two years, the health of children has declined. There is a need to continue to improve maternal childcare services.

23. The accession by the Cook Islands of the Convention on the Rights of the Child indicates the Cook Islands commitment to the realization of its objectives. Although most laws in the Cook Islands are consistent with the Convention it is acknowledged that more resources are necessary to progressively implement the Convention.

III. Facts and figures about the Cook Islands

Early history

24. It is widely accepted that the islands now comprising the Cook Islands received settlers both from nearby islands now part of French Polynesia and from the Samoas in the 13th century.

25. According to oral traditions of both the Cook Islands and New Zealand Maori peoples, New Zealand was settled about 1350 AD from Rarotonga. From that era, the indigenous peoples of both countries have been able to trace their genealogical relationships.

26. The Cook Islands was named after Captain James Cook of the British Royal Navy who, between 1773 and 1777, was the first recorded European to land on or survey a number of the islands now bearing his name.

27. Representatives of the London Missionary Society (LMS) began arriving in the Cook Islands in 1821 and quickly had a major impact on traditional society. The Cook Islands Christian Church, the largest religious denomination in the country, is the successor of the LMS.

28. In 1888, acting on a petition from the principal ariki (chiefs), the British Government declared a Protectorate over the Southern Cook Islands (known then as the Hervey Islands). In 1901, what are now the entire Cook Islands became a dependent Territory of New Zealand.

29. With the adoption of the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960, New Zealand offered the Cook Islands a number of choices for its political future. Given the Territory's small size, limited resources, isolation, the growing number of Cook Islanders seeking employment opportunities in New Zealand and the then dependence on New Zealand for financial assistance, in an act of self-determination conducted in 1964, the Cook Islands chose to enter into free association with New Zealand. On New Zealand's invitation, the United

Nations observed the self-determination process, the first time that it had done so in a territory not a United Nations mandate.

30. The relationship of free association between the Cook Islands and New Zealand began on 4 August 1965. Cook Islanders have New Zealand citizenship and Her Majesty Queen Elizabeth II is Head of State of both countries. At the same time, both the Cook Islands and New Zealand are equal States independent in the conduct of their own affairs.

31. In the conduct of its foreign affairs, the Cook Islands interacts with the international community as a sovereign and independent State. Responsibility at international law rests with the Cook Islands in terms of its actions and the exercise of its international rights and fulfilment of its international obligations. The Government of the Cook Islands possesses the capacity to enter into treaties and other international agreements in its own right with governments and regional and international organizations.

32. Official relations between the Cook Islands and New Zealand are based on the 1961 Vienna Convention on Diplomatic Relations. The Cook Islands has also established formal diplomatic relations with a growing number of other States including Australia, China, the European Communities, the Federal Republic of Germany, France, India, Iran, Malaysia, Portugal, South Africa and Spain.

33. The Cook Islands has become a party to numerous regional and global treaties dealing with a wide range of issues including civil aviation, counter-terrorism, disarmament, the environment, human rights, law of the sea, shipping and trade.

34. The Cook Islands is a full member of a wide range of regional and global organizations. In the South Pacific region, for example, the Cook Islands are a member of the Pacific Islands Forum, the Forum Fisheries Agency and the South Pacific Regional Environment Programme. Beyond the region, the Cook Islands is a full member of a range of multilateral international organizations, including the Food and Agriculture Organization (FAO), the International Civil Aviation Organization (ICAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO) and the World Meteorological Organization (WMO).

Geographical setting

35. The Cook Islands comprises fifteen islands scattered over an enormous area of ocean, extending from Penrhyn Island 9 degrees south of the equator to Mangaia Island just north of the Tropic of Capricorn. The islands lie virtually at the centre of the Polynesian Triangle of the South Pacific, flanked to the west by Niue and the Samoan Islands and to the east by Tahiti and French Polynesia.

36. The Cook Islands lies between latitudes 9 degrees and 22 degrees south and longitudes 157 degrees and 166 degrees west. The islands are divided geographically along a line between Palmerston and Suwarrow into a Northern Group (six islands) and a Southern Group (nine islands). The land area is 236.7 sq. km with the Southern Group accounting for 89 per cent of the total land area and 90 per cent of the country's total population of 18, 027 (2001p).

37. The Exclusive Economic Zone (EEZ) of the Cook Islands occupies 1.8 million square kilometers of the South Pacific Ocean.

38. The islands represent the five different island systems found in the Pacific Basin: high volcanic; low volcanic, surrounded by a raised reef platform or makatea; volcanic, partially submerged with a large atoll-type lagoon or almost-atoll; the true atolls; and sand-cays. The low-lying islands have a height range, above mean sea level, of five to nine meters. Rarotonga is both the largest island (6 km wide and 67.2 sq. km in area) and the

highest island, rising to 652 meters above mean sea level. With the exception of Manuae and Takutea all islands of the Cook Islands are inhabited.

39. On many of the islands people live on narrow coastal fringes and because of size, isolation, and fragile vulnerability of tropical island ecosystems, the country's biological diversity is among the most threatened in the world. In pursuing development initiatives, widespread recognition has been given to the need for special attention to be given to protecting the environment and peoples' livelihood.

40. The Cook Islands enjoys a South Pacific moderate climate. Trade winds blow almost continuously. Rainfall is normally spread evenly throughout the year but there is considerable variation from year to year. The islands lie within the hurricane belt and severe damage to crops, housing and coastal areas, including harbours, can be expected once or twice each decade. The hurricane season lasts from November to March during which time storms of less than hurricane strength may also inflict damage to the islands.

41. The Southern Group islands are generally larger and more heavily populated than those of the Northern Group. On the atolls of the Northern Group two or three villages are located on the large islets with frequent movement by motor boats between these large islets and smaller, uninhabited islets is necessary for economic purposes such as harvesting coconuts. The capital of the Cook Islands is Avarua on Rarotonga.

The people

42. The indigenous population of the Cook Islands is the Cook Islands Maori, Polynesians closely-related ethnically to the indigenous populations of Tahiti and nearby islands and to the New Zealand Maori. The Cook Islands Maori are acutely aware and proud of their cultural heritage and traditional customs and practices pervade their daily lifestyle. Even though society has been much influenced and altered by external religious beliefs, life-styles and the cash economy, their adoption of aspects of western culture is nevertheless influenced by traditional culture. While a number of cultural changes have taken place and Cook Islands society will continue to evolve, the oral traditions of the people, many of the customs surrounding the main phases of life — birth, marriage and death — and the social institutions of the marae (meeting place), koutu (investiture sites) and the paepae (house sites) still inform and continue to give meaning and value to daily life, albeit some more strongly than others.

43. There is a strong sentiment within the Cook Islands to strengthen the traditional acculturation of the younger generation to reduce the risk of any further decline in the traditional culture. Cook Islands Maori is the first language for most Cook Islanders but English is also frequently used, especially in schools, businesses and Government administration. A central element will be the focus on Cook Islands Maori as the national language in day-to-day use, along with English; this is particularly important because of the close linkage between language, culture and environmental appreciation. Both parliamentary debates and court proceedings are conducted in both English and Cook Islands Maori.

44. There are three main ethnic groups in the Cook Islands, namely Cook Islands Maori, Part Cook Islands Maori and Others. In 1996, 16, 284 or 90 per cent of the total resident population were Cook Islands Maori, 920 or 5.1 per cent were Part Cook Islands Maori, and 830 or 4.6 per cent were of Other Ethnic Origin, with almost 90 per cent or 735 living in Rarotonga. Non-Polynesians, particularly those of Western cultural backgrounds (e.g. Australia, Canada, European countries, New Zealand, the United States etc) are commonly referred to generically as 'Europeans'.

45. In addition to the above, a large number of Cook Islanders have migrated to New Zealand, Australia and elsewhere over the years, primarily to seek better employment opportunities. In 1996, approximately 47, 000 Cook Islanders resided in New Zealand, with another approximately 5–10, 000 in Australia.

46. Non-Cook Islanders are required to live in the Cook Islands for at least three years before becoming eligible to apply for permanent residence. The Cook Islands Government grants permits to people who wish to enter and reside in the Cook Islands either as visitors for less than six months, or on work permits.

47. Since 1996 there has been a sharp decrease in population, due to the economic crisis and the restructuring of Government with a reduction of some sixty per cent in the numbers employed in the public service. Total resident population estimates indicated a gradual decrease of 18,800 in 1996 to 14,600 in 2000, showing a decrease of 22.6 per cent.

48. Population distribution by island showed that 12,206 or 67.7 per cent of the total population reside on Rarotonga, 4,022 or 22.2 per cent lived in the Southern Group islands and 1,819 or 10.1 per cent live in the Northern Group islands.

Table 1.1

Population estimates and vital statistics

<i>Period</i>	<i>Total population estimate</i>	<i>Total resident estimate</i>	<i>Crude birth rate</i>	<i>Crude death rate</i>	<i>Infant mortality rate</i>
1996	20 000	18 800	27.1	5.9	23.5
1997	18 300	17 400	23.7	8.3	36.3
1998	17 400	16 600	23.3	6.5	20.7
1999	16 400	15 500	22.3	6.2	14.5
2000	17 900	14 600	21.2	7.9	19.4
2001	18 200	13 900	20.3	4.7	14.2

Statistics Office, MFEM.

49. The population trend of the Cook Islands from 1991 to 2001 showed that the population slightly declined by 486 or 2.6 per cent between 1991 and 1996, and continuously dropped by 1, 076 or 5.6 per cent between 1996 and 2001. Population densities varied widely by island and island group. There were about 182 people per km² on the main island Rarotonga, while there were 28 people per km² in the Southern Group islands and 75 in the Northern Group islands. Table 1.2 shows population distribution between 1991 and 2001.

Table 1.2

Total population by Island

<i>Island</i>	<i>Land area (sq. km)</i>	<i>Population density</i>	<i>1991 census</i>		<i>1996 census</i>		<i>2001 census</i>		<i>Percentage change over time 1996–2001</i>
			<i>Total population</i>	<i>Percentage distribution</i>	<i>Total population</i>	<i>Percentage distribution</i>	<i>Total population</i>	<i>Percentage distribution</i>	
Cook Islands	236.7	76	18 617	100	19 103	100	18 027	100	-5.6
Rarotonga	67.1	182	10 886	58.5	11 225	58.8	12 206	67.7	8.7
Southern Group (excluding Rarotonga)	143.9	28	5 463	29.3	5 424	28.4	4 002	22.2	-26.2
Aitutaki	18.3	106	2 357	12.7	2 389	12.5	1 937	10.7	-18.9

Island	Land area (sq. km)	Population density	1991 census		1996 census		2001 census		Percentage change over time 1996–2001
			Total population	Percentage distribution	Total population	Percentage distribution	Total population	Percentage distribution	
Mangaia	51.8	14	1 214	6.5	1 108	5.8	745	4.1	-32.8
Atiu	26.9	23	1 006	5.4	956	5	622	3.5	-34.9
Mauke	18.4	25	639	3.4	652	3.4	468	2.6	-28.2
Mitiaro	22.3	10	247	1.3	319	1.7	230	1.3	-27.9
Northern Group	24.4	75	2 268	12.2	2 454	12.8	1 819	10.1	-25.9
Palmerston	2.1	23	49	0.3	49	0.3	48	0.3	-2
Pukapuka	1.3	511	670	3.6	779	4.1	664	3.7	-14.8
Nassau	1.3	53	102	0.5	99	0.5	69	0.4	-30.3
Manihiki	5.4	96	663	3.6	668	3.5	516	2.9	-22.8
Rakahanga	4.1	39	262	1.4	249	1.3	161	0.9	-35.3
Penrhyn	9.8	36	503	2.7	606	3.2	357	2	-41.1
Suvarrow	0.4	10	10	0.1	4	0	4	0	0

Statistics Office, MFEM.

50. Cook Islanders are able to freely live and work in New Zealand, due to the free association relationship between the Cook Islands and New Zealand in accordance with which Cook Islanders are New Zealand citizens. Therefore, the high natural population increase is offset by emigration. The population has been subject to change with economic cycles as people leave in search of employment opportunities when the economy is in a downturn, whilst numbers rise in times of strong economic growth.

Population distribution and structure

51. Indications are that the current population distribution, which is consistent with Rarotonga being the centre of national economic development, will continue with a drift of people to Rarotonga either to reside or to stop over in transit for an overseas destination. For those in the Outer Islands wanting to improve their status, Rarotonga is a natural attraction for employment opportunities. However, it should be noted that the usual rural/urban are artificial terms when applied to the Cook Islands. There are no towns and cities as such. The population resides in villages and the most significant distinction is that the administrative centre and most of the economic activity plus more than 50 per cent of the population is centred in Rarotonga (urban area), while those residing in the outer islands (rural areas) are significantly less developed.

52. Data on household composition was established by identifying a head of household who serves as a reference person to whom all other persons in the household, in terms of family membership, can be related. In 1996 men headed 77 per cent of the total households while women headed the remaining 23 per cent of households. Compared to 1991, there is an increase of 4 per cent in the female-headed households. In general, Cook Islanders refer to the oldest male person living in the household as the head of household, regardless of his economic ability to support the household members.

53. The population structure can be described by three broad age groups, namely those below 15 years of age (younger dependents); 15–59 years of age (working age group); and those 60 years of age and over (older dependents). In 1996 the percentage for the resident

population below the working age group was 35.9 per cent compared to 35.5 per cent in 1991. The percentage of the resident population above the working age group was 8.3 per cent in 1996 compared to 7.5 per cent in 1991.

Social indicators

54. Broad social indicators place the Cook Islands towards the top in the Pacific in literacy rates and school enrolment ratios. Life expectancy, infant mortality rates and access to safe water and sanitation compare well with Pacific neighbours. Nevertheless, there is significant disparity between Rarotonga and the Outer Islands in access to and the quality of social service provision. Widely dispersed populations, remoteness and limited communications with some Outer Islands present constraints for equal access and efficient nation-wide delivery of service. However, the Government is committed to the provision of equitable, cost-effective services to the Outer Islands. The Island Councils have enhanced this through a UNDP project the purpose of which is to assist the Office of the Minister for Island Administration and support the devolution of responsibility in the provision and delivery of these services.

Life expectancy

55. The life expectancy at birth for males and females has been estimated at (2001) for males 68 years and 71.5 years for females in 1996. Life expectancy for males have improved since 1981 by 4 years compared to women by 1 year.

Infant mortality rate

56. The infant mortality rate (IMR) is the most common measurement of early age mortality and it measures the number of deaths before age one year per 1,000 live births. In the 1996 the IMR was 23.5 persons per 1,000 births and 19.4 per 1,000 births in 2000, however this dropped to 14.2 in 2001. (However, this statistic should be treated with caution. A number of women give birth in New Zealand and their statistics are not necessarily recorded on the Register of Births).

Crude birth rate

57. The crude birth rate was 27.1 births per 1,000 in 1996 gradually declining to 20.3 births per 1,000 in 2001. This compares with a crude death rate of 5.9 deaths per 1,000 in 1996 and 4.7 deaths per 1,000 in 2001.

Total fertility rate

58. The most commonly used indicator to describe a country's fertility situation is called the total fertility rate (TFR). This measure gives an indication of the average number of children women would give birth to during their reproductive lives (15–49 years of age). The TFR for the resident population is estimated to be 3.78 for the period 1991–1996.

Governance

59. The Parliament of the Cook Islands consists of 25 members elected by secret ballot under a system of universal suffrage. The Constitution makes provision for representation in Parliament from all the inhabited islands. In 1981, the Constitution was amended to create an Overseas Constituency, represented by one Member of Parliament, that constituency including New Zealand and all other areas outside the Cook Islands.

60. A Cabinet of Ministers comprising the Prime Minister and up to five other Ministers is appointed from amongst Members of Parliament. As well, there is a provision for one additional Minister who is not a Member of Parliament to be appointed. The Cabinet has the general direction and control of the Executive Government and Ministers are collectively responsible to Parliament. The Prime Minister is appointed by the Queen's Representative, as being the Member of Parliament commanding the confidence of the majority of the members. The Queen's Representative on the advice of the Prime Minister appoints the other Ministers.

61. Currently there are three political parties in the Cook Islands – the Cook Islands Party, Democratic Alliance Party (DAP) and the New Alliance Party (NAP). The last general elections were held on 16 June 1999. There was no outright majority following the 1999 elections and as a result a number of coalitions have been formed.

Local government

62. The Outer Islands Local Government Act 1987 applies to all islands except Rarotonga. Pursuant to that Act, the Island Council on each island carries out a range of activities relating to social and economic development of that island and assists the central Government in national matters as they may affect that island. Island Councils are capable of owning and disposing of property. Membership of the Island Council consists of the traditional chiefs (Ariki) of the Island, a representative of the Aronga Mana (traditional leaders under the Ariki) of the Island, the members of Parliament of the Island and the elected members of the island council constituencies for each island.

63. A system of local government for Rarotonga was reactivated in 1997 with the passage of the Rarotonga Local Government Act. The first elections for Mayors and Councillors took place in November 1998. There are a total of 30 members including three Mayors. There are 13 seats in Te Au o Tonga (town area): eight in Puaikura (western part of the island) and nine in Takitumu (eastern part of the island). The Outer Islands have Island Councils. As with the Vaka Councils, the Island Councils are permanent bodies capable of owning and disposing property. They assist in the co-ordination of any activity relevant to the economic and social development of each island and assist Government in the rule and governance of the islands.

Traditional leaders

64. The Constitution establishes a House of Arikis, its main function being to consider such matters relative to the welfare of the people of the Cook Islands as may be submitted to it by Parliament for its consideration and to express its opinion and make recommendations thereon to Parliament. The House of Arikis Act 1966 supplements the provisions of the Constitution. The House comprises eight Ariki representing the Outer Islands and not more than six appointed to represent Rarotonga and the Island of Palmerston.

65. A 1972 amendment to the House of Arikis Act 1966 saw formal recognition given to a further traditional body known as the Koutu Nui. This provides an avenue for the Mataiapo and Rangatira (sub-chiefs) of each of the tribes to also have a voice in the decision-making process of Government.

Economy

66. Since 1996, the Government has embarked on a comprehensive economic restructuring programme. This embraces measures over the short-term to stabilize and improve public finances through reductions in expenditure, asset sales and the retirement and restructuring of debt. Institutional change has involved reducing Government employment by more than half, passing reform legislation with respect to taxation, public finances, the public service and other related matters and a conversion to accrual accounting. Economic restructuring has involved accelerating privatization, including sales of Government-owned hotels and the media and the deregulation of the sale of liquor.

67. The objectives of Government are to improve the economy and create jobs in the private sector. With the downsizing of the public service, employment opportunities for youth, especially those with limited skills and qualifications, have been severely reduced. There are very few career-based training opportunities for school leavers in the country. The 1996 Census shows an increase in unemployment as a result of the Government's economic reform.

68. Tourism has come to play an increasingly significant part in the economy, estimated to generate approximately 37 per cent of GDP.¹ The number of visitors to the Cook Islands has increased fivefold since 1975, from 10,000 per year to around 50,000 per year in 1998. Total arrivals in 1999 were 55,599; in 2000 there were 72,994 and in 2001, 74,541.

69. Agriculture and fishing, finance and business services (mainly onshore and offshore banking) are also important economic sectors, representing approximately 20 per cent and 10 per cent of gross domestic product (GDP), respectively. Government forecasts real growth in these sectors over the next three years.

70. Since 1996, GDP in real terms had fallen each year and did not begin to recover until 1999. However, indications are that the economy has stabilized and a recovery in real GDP of 2.9 per cent is forecast for the financial year 1999/00.² Real GDP growth for the following two years is expected to exceed three per cent per annum.

71. Per capita income in 1998 was NZ\$ 8,031, an increase of 1.9 per cent over 1997 figures. GDP at current prices experienced an upward trend between 1982 (NZ\$ 33.9 million) and 1994 (NZ\$ 161.2 million) but subsequently slid to NZ\$ 155.1 in 1995 and NZ\$ 139.7 in 1998, however, it experienced a negative growth between 1996 (NZ\$ 149.1 million) and 1997 (NZ\$ 144.2 million) but slightly improved to NZ\$ 146.3 million in 1998 with a significant growth of 10.2 per cent between 1999 (NZ\$ 155.7) and 2000 (NZ\$ 171.6 million). GDP at 1990 Average Prices saw a negative growth between 1996 and 1998 but continued with a growth rate of 5.8 per cent in 1999 and 9.8 per cent in 2000. Real GDP per capita during 1996–2000 have experienced strong growth in 1997 (6.2 per cent) and 1999 (12.2 per cent). For the year 2000 the real GDP per capita was NZ\$ 9,587, an increase of NZ\$ 46 or 1.0 per cent on 1999.

¹ Cook Islands – Standard and Poor's Report, April 1998.

² The Government's Financial Year is 1 July–30 June.

Table 1.3
Gross Domestic Product at current and at 1990 average prices

Calendar year	At current prices					At 1990 average prices			
	Mid-year population	GDP (\$'000)	Growth rate (%)	GDP per capita (\$)	Growth rate per capita (\$)	GDP (\$'000)	Growth rate (%)	GDP per capita (\$)	Growth rate per capita (%)
1996	20 000	149 069	-3.9	7 453	-6.7	125 352	-0.2	6 268	-3.2
1997	18 300	144 239	-3.2	7 882	5.7	121 863	-2.8	6 659	6.2
1998 (r)	17 400	146 294	1.4	8 408	6.7	116 731	-4.2	6 709	0.7
1999 (r)	16 400	155 650	6.4	9 491	12.9	123 482	5.8	7 529	12.2
2000 (p)	17 900	171 599	10.2	9 587	1	136 067	10.2	7 602	1

Statistics Office, MFEM.

72. The current GDP composition by the three main sectors showed that agriculture and fishing (a significant proportion of this is subsistence) has a share of 16.6 per cent, industry with a share of 7.8 per cent and services with a share of 75.6 per cent. The main foreign exchange sectors are tourism, offshore finance and the pearl industry.

Table 1.4
Gross Domestic Product at current and at 1990 average prices by sector

Calendar year	At current prices ('000)				At 1990 average prices ('000)			
	Total	Agriculture & fishing	Industry	Services	Total	Agriculture & fishing	Industry	Services
1996	149 069	29 108	10 619	109 342	125 352	23 318	8 487	93 547
1997	114 240	30 976	10 686	102 578	121 863	26 171	9 028	86 665
1998 (r)	146 294	28 655	11 090	106 549	116 731	21 442	9 327	85 962
1999 (r)	155 650	22 066	12 451	121 134	123 482	15 551	9 977	97 953
2000 (p)	171 599	28 475	13 324	129 801	136 067	20 583	10 658	104 827

Statistics Office, MFEM.

Inflation

73. The annual average inflation rate for the December Quarter 2001 was 8.71 per cent slightly increasing by 0.24 points over the September Quarter 2001. For the year 2001 the inflation rate was 8.71 per cent compared to 3.15 per cent in 2000 with a significant increase of 5.56 points. This positive trend was experienced since 1998 steadily climbing to 8.71 per cent in 2001. The ability of the Government to control inflation because New Zealand currency is legal tender in the Cook Islands and thereby beyond the Government's control to regulate.

Foreign debt

74. The Cook Islands experienced a financial crisis in 1996. A failed Government initiated hotel project and other projects left the Cook Islands Government with an unsustainable public debt of US\$ 141. The principal creditors – the Governments of Italy, France and New Zealand, and RONFIN (a trust established for the benefit of the people of Nauru) met to compromise the debts in a Paris Club style arrangement. Agreement has been

reached with all the creditors except France and the national debt was consequently reduced to around NZ\$ 115.9 million.

75. A package of economic reforms including privatization and deregulation was initiated in July 1996 to deal with a national debt of US\$ 141m (120 per cent of GDP). This had been reduced to NZ\$ 114.9 by 2000.

76. In the wake of the financial crisis the Government launched an economic reform programme supported by the Asian Development Bank (ADB) and New Zealand Government. The Public Service was downsized with two thirds of public service employees being laid off and the number of Government ministries reduced from 52 to 22. The taxation regime was reformed by broadening the tax base through the introduction of a goods and services tax (GST) although called value added tax (VAT) in the Cook Islands and the lowering of income tax rates. New tax legislation was also designed and adopted to encourage investment and development. In addition legislation was passed to bring greater transparency and fiscal responsibility to Government institutions. The initiation of an asset sale programme which was aimed to privatize functions and sell assets where Government is either in competition with the private sector or is undertaking an activity which could adequately be undertaken by the private sector. That process continues.

Foreign aid

77. The total external economic aid estimated for the year 2000/2001 was NZ\$ 11.95m and NZ\$ 13.2m was budgeted for the year 2001/2002. New Zealand remains the main aid donor for the year 2001/2002 with NZ\$ 6.2m or 47 per cent of total economic aid package. Aid contributions by other aid donors showed the Asian Development Bank, Australia, Britain, Canada, China, UNDP, WHO, UNESCO, amongst others have also contributed to the Cook Islands. Aid is now expended only on capital projects and is not available to supplement ordinary budgetary expenditure.

Employment

78. In 1996, of the economically active population (5,994), 5, 230 or 87.3 per cent are employed while 764 or 12.7 per cent were unemployed. Distribution of the employed population by region showed that there were 4,021 or 76.9 per cent on Rarotonga, 797 or 15.2 per cent in the Southern Group islands and 412 or 7.9 per cent in the Northern Group islands. Of those employed (5,230) more than a half (3,072 or 58.7%) were males while there were 2,158 or 41.3 per cent were females. Of those unemployed there were 594 or 77.7 per cent men and 170 or 22.3 per cent were females.

79. Employment by industry showed that employment is still concentrated in the Community, Social & Personal Services 35.5 per cent, followed by those in the Trade, Restaurants & Accommodation (28.1 per cent), Agriculture & Fishing (10.6 per cent), Transport & Communication (9.5 per cent), Mining, Quarrying & Manufacturing (5.8 per cent), Finance, Property & Business Services (5.2 per cent), Construction (3.0 per cent) and Electricity & Water (2.3 per cent).

80. Most of the employed population are engaged as Service Workers, Shop & Sales Workers (16.1 per cent) and Elementary occupations (15.6 per cent), the remaining are engaged as Professionals (14.1 per cent), Clerks (12.2 per cent), Legislators, Senior Officials & Managers (11.5 per cent), Craft & Related Trade Workers (10.0 per cent), Technicians & Associate Professionals (9.2 per cent) and 3.6 per cent are Plant & Machine Operators & Assemblers plus other occupations.

81. There is no unemployment benefit paid in the Cook Islands and it is therefore regarded a country with full employment although not all persons are employed in the cash economy. Unemployed Cook Islanders tend to migrate to New Zealand as they have free access to work there. The 1996 Census recorded a total of 764 unemployed persons with 77.6 per cent comprising of men.

82. Government spending by major function that impact on children is illustrated in table 1.5.

Table 1.5

Cook Islands expenditure by function

Year	Admin	Public order & safety	Education	Health	Housing/ community services	Recreation & culture	Agriculture, forestry & fishing	Others
	(\$ 000)							
1995/96	18 604	3 317	6 331	5 932	8 972	1 698	3 941	10 725
%	30.7	5.5	10.54	9.8	16.5	2.8	6.5	17.7
1996/97	7 598	3 081	5 576	4 828	1 016	491	2 442	17 409
%	17.9	7.3	13.1	11.4	2.4	1.2	5.8	41.0

Source: Cook Islands Statistical Bulletin June 1998.

Trade unions

83. There are a number of worker's collectives which include the Public Service Association, Cook Islands Workers Association, Nurses Association and Teachers Association.

Literacy rate

84. Education is compulsory for all persons from 5 to 15 years in the Cook Islands, thus the literacy rate is estimated to be over 90 per cent.

Religious affiliations

85. Religion is an important part of Cook Islands life. There are three main religious denominations in the Cook Islands. In 1996, 58 per cent of the resident population belonged to the Cook Islands Christian Church (CICC), 17 per cent were Roman Catholics (RMC) and almost 8 per cent belonged to the Seventh Day Adventist Church (SDA). A further 13 per cent belong to other denominations with 2 per cent not stating their religion.

86. Changes since 1991 showed that members of the CICC have decreased by 4 per cent while the next two religious groups SDA and RMC have shown an increase in their membership. Increases are also shown in the number of persons with no religion and those who did not state their religion.

Family and culture

87. Basically there are three important interconnected components to living for a Cook Islander, namely, family, land and culture. The family remains the basic economic and

social unit in the Cook Islands. Land ownership and usage is related to family and extended family units and the practices of extended family units. The practices of land usage traditionally rely on the level of Maori custom a family or groupings adhere to in a village or vaka (tribal district). Additionally although all islands in the Cook Islands embrace these basic components, each island practices its own form of community control and social organization. There is no complete uniformity in customary practices from island to island, and even amongst the communities on the main island of Rarotonga customs may differ in certain respects.

88. Poverty and destitution is not widespread in the Cook Islands. A destitute allowance of \$100.00 per month is paid to those persons who meet the criteria set out under the Welfare Act 1989. There are only a handful of people who receive this benefit, totaling about 9–10 per annum on Rarotonga and about five in the Outer Islands. In each community there is a mix of income groups, and there is a strong tradition of mutual support amongst extended families.

IV. General measures of implementation

A. Measures taken to harmonize national law and policy with the provisions of the Convention

Domestic implementation of the Convention

89. There have been no known cases of a Cook Islands court having rendered decisions involving treaties and their domestic applicability. In light of this, the Cook Islands made the following general declaration on the non-direct effect of the Convention in the Cook Islands.

“The Cook Islands declares that domestically the Convention does not apply directly. It establishes State obligations under international law that the Cook Islands fulfils in accordance with its national law, which conforms with the Convention.”

90. The Cook Islands made a further general declaration as follows:

“The Cook Islands considers that a child’s rights as defined in the Convention, in particular the rights defined in Articles 12–16, are to be exercised with respect for parental authority, in accordance with Cook Islands customs and traditions regarding the place of the child within and outside the family.”

91. A Juvenile Crime Prevention Committee was established in 1997 dealing directly with juvenile offences and complaints. This involves group conferences with family members in the hope that matters will be resolved and solutions achieved without the requirement of a court hearing. Depending on the severity of the complaint or alleged offence, the case may be withdrawn, the offender admonished, placed under supervision or transferred to the Children’s Court.

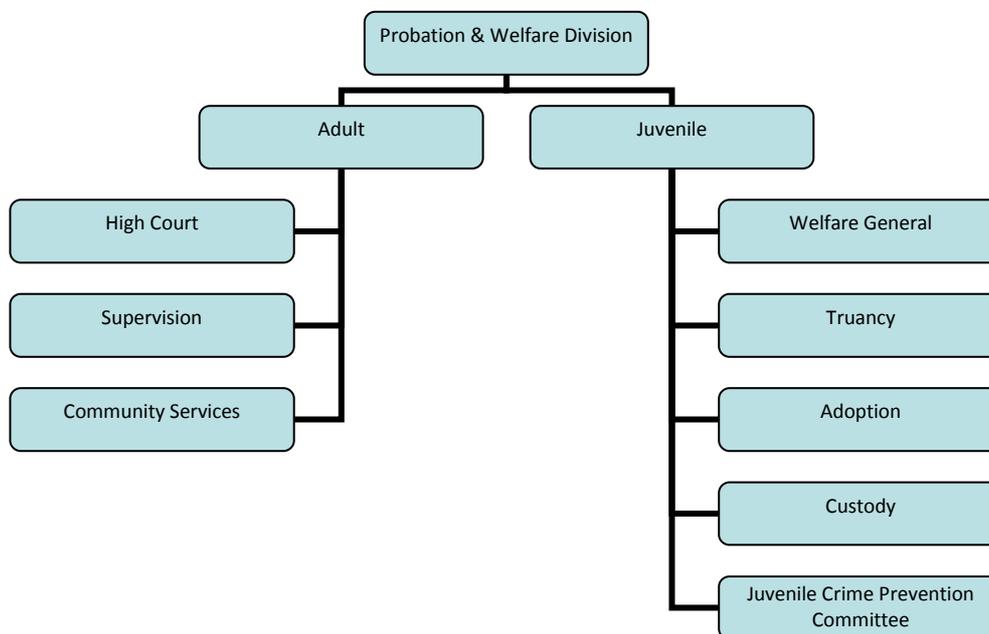
92. The economic reforms in 1996 merged the probation and juvenile welfare services in the Ministry of Justice. Previously, Probation Service was a stand-alone unit under the operation of the Corrective Services.

93. Services provided by the Probation Service to children and families since the economic reforms have improved. The reduction of staff numbers from twenty-six to eight full time workers has forced the Service to be more efficient in the delivery of their services. This was made possible through the implementation of staff development

programmes and upgrading of skills together with incentives and rewards. The operational structure of the Service is shown in Figure 1.

Figure 1

Ministry of Justice operational structure



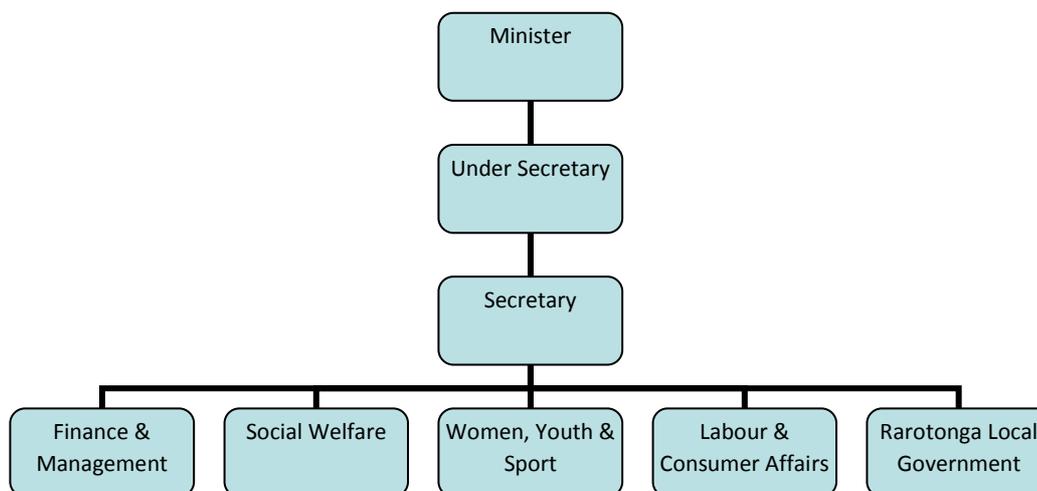
94. Probation records were computerized in 1998 and as a result, follow-up visits and monitoring programmes have improved.

95. A Juvenile Crime Prevention Committee was established in 1997 to consider juvenile offences and complaints only. This involves group conferences with family members with the view that matters will be resolved and a solution achieved without the requirement of a court hearing. Depending on the severity of the complaint or alleged offence, the case may be withdrawn, the offender admonished, placed under supervision or transferred to the Children's Court.

Youth development

96. Previously, there was a Ministry of Youth and Sport; however, with the economic reforms in 1996, their responsibilities were assumed the Ministry of Internal Affairs (now Ministry of Internal Affairs and Social Services). The Ministry is also responsible for social welfare and women's affairs. The structure for the Ministry is illustrated in figure 2.

Figure 2
Ministry of Internal Affairs organizational structure



97. In 1999, the Ministry of Internal Affairs received financial support for one year from New Zealand Overseas Development Assistance (NZODA) to employ a Youth and Sports Officer responsible for overseeing women and youth activities in the Ministry. The position has now been made permanent and is funded by the Child, Youth and Sports Division of the Ministry of Internal Affairs.

98. The development of a National Policy for Youth (ages 15–34 years) began in 2000 with financial assistance from the Commonwealth Secretariat and the Secretariat of the Pacific Community. The purpose of the Youth Policy is to facilitate concerted efforts by all stakeholders towards youth development issues. It also intends to encourage a multi-sectoral approach in development appropriate strategies to assist youth meet their needs. Consultations were held widely to assist in the compilation of the Youth Policy.

99. In the draft Youth Policy 3, the following having been identified as critical issues for Government’s consideration when developing Government policies and strategies: education and training; youth leadership; labour force participation; teenage pregnancy; research; youth gangs; alcohol and drug abuse; sport and recreation; and youth and crime. Although there are mechanisms already in place that address some of the issues, these are viewed in general as interim processes and do not fully address preventative and positive approaches for action.

Non-government organizations

100. Non-government organizations play a constructive and complementary role in the Cook Islands by highlighting the shortfalls with respect to service delivery by Government agencies to children and providing where possible assistance to remedy the situation. There are several NGOs active in promoting child rights in the Cook Islands.

B. Strengthening measures to coordinate policies and to monitor implementation

101. The National Advisory Body for Child Development was formed in 1997 with the Ministry of Health taking the lead role as facilitator of this Body. The Advisory Body is responsible for ensuring that matters relating to children is considered in policy planning and programme development. The National Advisory Body consists of eleven members and

is made up of Government and non-government organizations. In January 2000 the 'secretariat' role of the Body was moved from the Ministry of Health to the Ministry of Internal Affairs as a result of the current responsibilities the latter Ministry has with regard to women, children and social welfare.

102. The Ministry of Internal Affairs was given responsibility for coordinating the Cook Islands Initial Report to the United Nations Committee on the Rights of the Child on the progress of implementation of the Convention. The process involved monthly meetings of all relevant Government departments — Crown Law, Education, Foreign Affairs, Health, Internal Affairs, Justice, Outer Island Administration, Police and non-Government organizations — Cook Islands Disabled Society, Cook Islands Red Cross, Cook Islands Association of Non-Government Organizations, Cook Islands Women's Counselling Centre/Punanga Tauturu Inc., House of Ariki, Pan Pacific South East Asia Women's Association, Religious Advisory Council, National Council of Women and the Seventh Day Adventist Church Family Life Youth Programme. Other Government departments and NGOs were co-opted as appropriate.

103. The responsibilities of the Body are to:

- Provide guidance and information on the writing of the first report on the Convention
- Monitor future activities related to children as outlined in the first report
- Coordinate recommendations of national effort in matters relating to children

C. Measures taken to make the principles and provisions of the Convention widely known

104. Having acceded to the Convention, the Government as well as a number of non-governmental organizations has been active in keeping the public informed about the Convention.

105. Public workshops have been held involving a wide cross-section of the community including traditional leaders, village leaders, non-government organizations, parents, children and representatives from Government ministries.

106. Some of the activities undertaken include the following:

- A national Symposium on the Convention was held in 1998 in collaboration with the Ministry of Foreign Affairs and Immigration and Punanga Tauturu Inc. UNICEF Pacific sponsored the meeting. The purpose of the meeting was to raise public awareness on the Convention. The target audience was Government ministries, NGOs, civil society and school students (head prefects of the four colleges on Rarotonga). Sponsorship was also secured to enable the attendance of some representatives (both Government and NGO) from the Outer Islands. The meeting was organized during the school holidays to ensure the attendance of school representatives.
- A national Youth Forum was held in 1999 in collaboration with the Ministry of Foreign Affairs and Immigration and the Ministry of Internal Affairs (Youth Division) and Punanga Tauturu Inc. Again UNICEF Pacific sponsored the Forum. The Forum was organized for 13–18 year old students from the main island of Rarotonga and from five of the Outer Islands (Aitutaki, Atiu, Mangaia, Mauke, Mitiaro). The Forum introduced the students to the Convention by focusing on the four themes of participation, protection, survival and development rights.

- Legal literacy workshops have been held in Rarotonga, Aitutaki, Atiu, Manihiki and Mangaia. Organized by Punanga Tauturu Inc. and sponsored by the Fiji-based Regional Human Rights Resource Team (RRRT), the workshops involved explaining the various pieces of legislation regarding women and children. The workshops were conducted over a period of four years, from 1998–2001 and attracted members of civil society and Government representatives.
- Pamphlets published by UNICEF entitled the Convention on the Rights of the Child — “Questions Parents Ask” and “Children’s Rights and Responsibilities – Being a Child” have been translated into the local vernacular — Cook Islands Maori.
- A poster covering ten articles of the Convention was published in English and Cook Islands Maori. A 15-year old Art student, Pupuke Browne from Tereora College, did the artwork. The sponsors of the project, the Rotaract Club of Rarotonga, selected his drawings from a large number of entries.
- Cartoons on the Convention have been aired on national television and have been instrumental in promoting a positive understanding of the Convention and in highlighting child and parental rights and responsibilities. These sessions have involved the Public Health and NGO representatives.
- Print media including daily newspaper articles has stimulated public interest and debate on talkback radio.

107. A lot of the information (fact sheets, videos and copies of country CRC reports) used in the community workshops and awareness-raising was obtained from UNICEF Pacific and other Pacific Islands and Asian countries. The material from other countries was adapted to suit the Cook Islands environment.

D. International coordination and cooperation

108. The Cook Islands has participated actively in numerous major regional and international meetings concerned with social and economic development and strongly supported initiatives emanating from those meetings the objective of which was, in whole or in part, to promote the rights and interests of children.

109. The Cook Islands is bound to various human rights Conventions, the most notable of these include:

- (a) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956;
- (b) International Covenant on Economic, Social and Cultural Rights 1966;
- (c) International Covenant on Civil and Political Rights 1966;
- (d) International Convention against the Taking of Hostages 1979.

110. Particular Conventions as related to the status of women to which the Cook Islands is bound include the Convention on the Nationality of Married Women 1957 and the Convention on the Elimination of Discrimination against Women 1979.

111. An overview of donor support programmes for children in the Cook Islands has been compiled by UNICEF Pacific and is attached as table 1.6.

112. The shortage of specialized personnel will always be of concern; a small population does not enjoy the benefits of having sufficient qualified personnel and therefore must depend on support from donor agencies and regional organizations to undertake some of the activities required of it.

Table 1.6
Overview of donor support programmes for children in the Cook Islands

<i>Agency</i>	<i>Activities/projects/programmes</i>	<i>Duration</i>
Japan International Cooperation Agency (JICA)	Expanded Programme on Immunization (EPI) <ul style="list-style-type: none"> • Support through supply of cold chain equipment • Provision of vaccines, storage and supplies for measles mass campaign 	1995–2000 (Continuation to be confirmed)
Australian Agency for International Development (AusAid)	Family Planning Regional Development <ul style="list-style-type: none"> • Assist Family Planning Association strengthen their administrative capacity & provide training to improve the quality of information disseminated 	1998–2000
UNICEF & NZ Government	Expanded Programme on Immunization (EPI) <ul style="list-style-type: none"> • Strengthening EPI in areas of planning, programme management, quality of services & range of vaccines used 	2001
Secretariat of the Pacific Community (Pacific Women's Resource Bureau)	Programme is contributing to the sustainable development of Pacific Island Countries by supporting the national aims of gender equity and the advancement of women	Ongoing
Zealand Official Development Assistance (NZODA) ³	New Gender and Development programme (GAD) <ul style="list-style-type: none"> • GAD initiatives include establishing national mechanism for the advancement of women's development, & integrate gender analysis into policies that will enhance the achievement of the Cook Islands National Policy on Women 	2000–2001
Regional Human Rights Resource Team (RRRT)	Legal & Human Rights Education <ul style="list-style-type: none"> • Assist organizations promote women, youth & children's legal and human rights • Support training activities to teach village, rural, grass roots women about their legal rights • Training of judicial personnel and support staff, police government law officers & legal practitioners in human rights & gender equity 	2000–2001
Asian Development Bank	Dialogue with Government on gender policy actions	2000–2002
Commonwealth Youth Programme (CYP)	Economic Enfranchisement <ul style="list-style-type: none"> • Focus on indigenous youth enterprise development training in partnership with Government and the private sector 	

³ Now NZAID.

Agency	Activities/projects/programmes	Duration
UNDP	<p>National Youth Policy Formulation</p> <ul style="list-style-type: none"> • Provide materials (tool kits) & technical assistance to assist Government develop a Youth Development Index <p>Human Resource Development</p> <ul style="list-style-type: none"> • Support youth undertake distant education courses towards a Diploma in Youth Development, run in partnership with the University of the South Pacific, Royal Melbourne Institute of Technology & Solomon Islands College of Higher Education <p>HIV/AIDS</p> <ul style="list-style-type: none"> • Using peer education approach, the CYP is preparing to take an active role with partner organizations in awareness programmes 	
WHO	<p>Non-Formal Education</p> <ul style="list-style-type: none"> • Broaden opportunities for skill development outside the formal school system with emphasis on “out of school youth” <p>HIV/AIDS</p> <ul style="list-style-type: none"> • The project aims to raise awareness & understanding of the development, causes & consequences of the spread of HIV/AIDS <p>Combating Communicable Diseases:</p> <ul style="list-style-type: none"> • Programme includes Expanded Programme on immunisation <p>Building Health Communities & Populations</p> <ul style="list-style-type: none"> • Programmes include Child & Adolescent Health & Reproductive Health 	

V. General principles

Article 1 Definition of a child

Legal context

113. There is no overarching law in the Cook Islands defining a “child”. Rather, including those Acts and other legislation of the New Zealand Parliament applied to the Cook Islands prior to 4 August 1965 and still in force in the Cook Islands (indicated in this Report by [NZ]), there are a large number of provisions in the Cook Islands legislation prescribing the various ages of children, depending on the matter involved. These include the following:

- The Infants Act 1908 [NZ] applies to any person under 16 years of age, unless the infant is physically or mentally incapable of self-support (Sec. 7(1)).
- For purposes of maintenance and affiliation, the Cook Islands Act 1915 [NZ], defines a child as a person under 16 years of age (Sec. 541).
- The Acts Interpretation Act 1924 [NZ] (Sec. 4) provides that, unless there are words to exclude or restrict such meaning, a minor is any person under the age of 21 years.
- The Cook Islands Industrial and Labour Ordinance 1964 [NZ] defines “boy” as “any male person under the age of 16 years” (Sec. 2). There is no definition of “girl”.
- For the purposes of the Prevention of Juvenile Crime Act 1968, a child is defined as any boy or girl under the age of 16 years (Sec. 2). If in any judicial proceedings under the Act the age of any child or young person is in question, the Court shall, in the absence of sufficient evidence, fix the age of such child or young person (Sec. 41).
- For the purposes of the Entry, Residence and Departure Act 1971–72, a “child” is defined as “any person, who, not being an adult, has not yet attained the age of fifteen years”. An “adult” means “any person who has attained the age of eighteen years or who, being under that age, is or has been lawfully married”. A “young person” means “any person who is neither an adult nor a child” (Sec. 2).
- The age of capacity to contract or to acquire and transfer land is 21 years of age as provided under the Cook Islands Act 1915, (Sec. 495).

114. See under specific articles below for further references to age.

Implementation

115. See discussion under separate articles below.

116. The Ministry of Health has a policy which states that the attending health service provider must ensure the involvement of a parent or guardian in the assessment, treatment and continuing care of and to aid the child under the age of 16 years in coping with illness and in particular with regard to contraceptive advice and medication. In practice, if parents know that their children are sexually active they will request from the health service provider that contraceptives be given to the child. There have been some isolated cases where it has been the teachers that bring young girls to the clinic to request contraception, usually at the request of the child. If the child does not wish the parents to know then generally the teacher or the health provider does not inform the parents.

Future implementation considerations

117. It is acknowledged that there are inconsistencies in the upper limits of defining a child. It is envisaged that a thorough review of Cook Islands legislation will ensure compliance with the Convention.

118. Legislation with regard to contraceptive use in the 14–17 year age group will also be reviewed. Clearly defined policies will have to be developed to reflect those legislative changes.

Article 2

Non-discrimination

Legal context

119. The Constitution recognizes children as having the same rights and protections as all adult persons, regardless of their race, national origin, colour, religion, opinion, belief or sex. The rights and freedoms included within article 64 of the Constitution are the following:

- (a) “The right to life, liberty, and security of person, and the right not to be deprived thereof except in accordance with law;
- (b) The right to equality before the law and to the protection of the law;
- (c) The right to own property and the right not to be deprived thereof except in accordance with law, provided that nothing in the Constitution shall be construed as limiting the power of Parliament to prohibit or restrict by Act the alienation of Native Land;
- (d) Freedom of thought, conscience and religion;
- (e) Freedom of speech and expression;
- (f) Freedom of peaceful assembly and association.”

120. Under the Cook Islands Act 1915 [NZ], no distinction is drawn between male and female children with regard to the making of maintenance orders and no discrimination is made between ‘legitimate’ and ‘illegitimate’ children (Sec. 541, 545, 547).

121. The Race Relations Act 1972 affirms and promotes racial equality in the Cook Islands and is intended to implement the International Convention on the Elimination of All Forms of Racial Discrimination. It inter alia, prohibits all forms of racial discrimination on the basis of colour, race, or ethnic or national origin (see, e.g., Sec. 3 (1)).

122. The Citizenship Act 1977 [NZ] provides for New Zealand citizenship by birth, descent or grant and no distinction is made between males and females (Sec. 6).

123. The Education Act 1986–87 provides for all children to have equal access to education (Sec. 4).

124. In acceding to the Convention, the Cook Islands reserved the right not to apply the provisions of article 2 in so far as those provisions may relate to the conferment of Cook Islands nationality, citizenship or permanent residency upon a child having regard to the Constitution and other legislation as may from time to time be in force in the Cook Islands.

125. During the period covered by the present report, the Cook Islands did not enact any legislation relating to nationality, citizenship or permanent residency.

126. In acceding to the Convention, the Cook Islands also declared that article 2, paragraph I did not necessarily imply the obligation of States automatically to guarantee foreigners the same rights as their nationals. The concept of non-discrimination on the basis of national origin should be understood as designed to rule out all arbitrary conduct but not differences in treatment based on objective and reasonable considerations in accordance with the principles prevailing in democratic societies.

Implementation

127. Article 64 does not explicitly prohibit discrimination on the basis of language, ethnic or social origin, property, disability, birth or other status (e.g. legitimacy or illegitimacy) as provided for in article 2 of the Convention. However, it is understood that, for all intents

and purposes at least, such discrimination does not exist in practice in the Cook Islands. In the unlikely event that such discriminatory acts be found to take place, Government would take prompt steps to rectify the situation, both in a specific sense (related to the individual discriminated against) and general sense (e.g. by enacting legislation and/or issuing appropriate policy directives).

128. Public services and infrastructure are less developed in the Outer Islands and children in these areas are to some extent disadvantaged. This includes equal access to quality health care and a good standard of education. These will be discussed under the relevant articles below.

129. Nurses and doctors continue to make visits to the Outer Islands however constrained by limited staffing resources. Emergency systems are established to evacuate patients from the Outer Islands to Rarotonga and then to New Zealand when all local resources and medical professionals and or specialists in that discipline conclude that the patient cannot be managed successfully in the Cook Islands. Limited budgetary allocations hinder future progress for equal access to health services however, Government continues to ensure that all Cook Islanders gain equal access to the same education and health programmes by providing larger Budget appropriations and better distribution of funds to the Outer Islands (please refer to table 1.5).

130. Fewer students in the Outer Islands continue their education beyond two years at secondary school and few are able to compete with Rarotonga based students for tertiary scholarships to overseas tertiary institutions as a result of limited subjects taught and lack of qualified teachers in those subjects. Educational facilities are also less developed in the Outer Islands. Lack of trained personnel and access to resources impedes educational achievement. A loan of approximately US\$ 983,000 obtained from the Asian Development Bank (ADB) in 1998 was provided to the Education Development Project, the purpose of which was to improve school facilities (repairing furniture, re-roofing classrooms, etc.) and purchase educational resources. Merit scholarships were offered in the past to exceptional (academic) students from the Outer Islands to attend secondary school on Rarotonga however since the economic reforms this is no longer available.

131. Girls who find themselves pregnant at school are required to leave and there is no standard policy or national ruling to allow the students to attend school either during pregnancy or after the baby is born. The father who may also be a student of the school is not usually required to leave school (perhaps because the identity of the father is sometimes not known). However, there are some schools that now have policies in place that allow the girl child to continue her schooling. In practice, very few girls opt to continue their schooling during their pregnancy, perhaps because of peer pressure, embarrassment, etc.

132. Tertiary study is provided to some students through long-term study awards. NZODA (New Zealand Overseas Development Assistance, now NZAID), AusAID (Australian Aid), Commonwealth Secretariat, Chinese, Israeli and Malaysian Governments, World Health Organization all fund various training awards. The purpose of the study awards is for the development and promotion of initiatives to meet national development requirements. They are targeted at upgrading the skills of the workforce to meet changing labour and vocational needs both in the private and public sector. These awards are granted on merit and few students from the Outer Islands have been successful in receiving these awards because of poor grades. Government is committed to continuing and strengthening training in essential skills in the economic sectors of marine resources, agriculture, tourism and business.

Future implementation considerations

133. To fulfil its obligations under the Convention, Government recognizes the necessity in instituting appropriate administrative or other measures prohibiting such discrimination on the basis of language, ethnic or social origin, property, disability, birth or other status. Should future circumstances require in light of certain forms of discrimination taking place are not covered by existing legislation, including the Constitution, Government will enact legislation taking into account the declaration made under this article.

134. The Ministry of Health is currently developing a tele-health project that will enable medical practitioners in New Zealand to assist doctors in the Cook Islands with medical concerns via the Internet.

135. The use of information technology for Outer Islands development, especially health and education, was studied and recommendations made in relation thereto by the National Information Infrastructure Committee in June 1999.

136. There are some secondary schools that are still considering the development of a policy to allow young parents to continue their schooling during pregnancy and to return to school following the birth of their child.

Article 3**The best interests of the child****Legal context**

137. The Infants Act 1908 [NZ] provides that, in any proceedings before any Court relating to the custody or upbringing of an infant, or the administration of any property belonging to or held in trust on behalf of an infant, or the application of income thereof, the Court shall regard the welfare of the infant as “the first and paramount consideration” (Sec. 2).

138. Courts and other official bodies are also required to give due consideration to the interests of the child under other legislation including the:

- Cook Islands Act 1915 [NZ], which requires the High Court to be satisfied that, inter alia, an adoption will not be “contrary to the welfare and interests of the child” (Sec. 461).
- Prevention of Juvenile Crime Act 1968 with respect to deliberations of the Juvenile Crime Prevention Committee (Sec. 10).
- Matrimonial Property Act 1976, which requires the High Court to have regard to the interests of any minor or dependent children of the marriage in the settlement of any matrimonial property (Sec. 26).
- Cook Islands Act 1915 [NZ] provides for protection for children who are beneficiaries under a will and it is the responsibility of the trustees to ensure the best interests of the child are protected (Sec. 503).
- Sale of Liquor Act 1991–92, the penalty for the sale or supply of liquor to a minor (in terms of the Act, any person under the age of 18 years) is a fine not exceeding \$5,000 and not less than \$500 (Sec. 2, 57). Every person commits an offence and is liable to a fine not exceeding \$1,000 and not less than \$100 who purchases or acquires any liquor with the intention of supplying the liquor to a minor (Sec. 58).

Implementation

139. Practical constraints to ensuring that the best interests of the child are met with regards to health, education and welfare include:

- Lack of Government and NGO resources (finance, staff, equipment and supplies)
- Inaccessibility of health care and other public services to remote parts of the Cook Islands due to irregular air and shipping services
- Public ignorance about the legal rights of children

140. The Ministry of Internal Affairs has a general function to effectively and efficiently achieve an impartial distribution of welfare benefit entitlements which includes child, destitute and infirm allowances.

141. The child benefit allowance is twenty dollars per fortnight and is paid monthly. A one-off payment of \$150 for new born babies born in the Cook Islands is also paid out to support parents immediately after the birth. The Budget for the Ministry of Internal Affairs over the past four years is provided in table 1.7.

Table 1.7

Ministry of Internal Affairs budget

<i>1996/97</i>	<i>1997/98</i>	<i>1998/99</i>	<i>1999/2000</i>
6 632 834	6 519 300	5 952 000	5 652 000

142. The custodial parent is responsible for the welfare of the child. Monitoring of the child is being undertaken by a number of agencies. The Ministry of Health is responsible for monitoring the health for pre-school children through their Mother-Child welfare clinics. It provides medical checks to all new entrants enrolling at school.

143. Free medical and dental checks by dental and public health nurses continue throughout primary and secondary school. Teachers monitor educational progress as well as checking whether children are fed and clothed adequately.

144. There is no child psychologist in the Cook Islands to help assess the problems and needs for children's development.

Future implementation considerations

145. Section 2 of the Protection of Children Ordinance 1954 discriminates between a boy child and a girl child regarding the limit of age to which a legal action for neglect can be launched. As section 215 of the Crimes Act 1969 is very similar to section 2 of the of the Protection of Children Ordinance 1954, it is recommended that the latter section be repealed, as section 215 of the Crimes Act 1969 does not discriminate against any child. This action will make the laws of the Cook Islands regarding this article consistent with the Convention on the Rights of the Child. It should be noted however, that amendments to legislation in non-reform areas have unfortunately been held up because of resource constraints and the need to give preference to reform-related and other legislation.

146. Government is giving consideration to the development of a more comprehensive system to assist in the welfare of children in the Cook Islands and a single agency delegated the responsibility to oversee the work of various agencies to co-ordinate and better manage the welfare of Cook Islands children.

Article 6

The right to life, survival and development

Legal context

147. Article 64 of the Constitution guarantees the right to life, liberty and security of person as well as the right not to be deprived thereof except in accordance with law.

148. This right is further protected in the following provisions of the Crimes Act 1969 specifically relating to children:

- Section 171 imposes a duty on everyone who has charge of any other person who because of age is unable to provide himself with the necessities of life to provide those necessities. Every one is liable to imprisonment for a term not exceeding seven years who, without lawful excuse, neglects that duty so that the life of the person under his or her charge is endangered or his or her health permanently injured by such neglect.
- Section 172 imposes a specific duty on parents and guardians to provide the necessities of life for any child under the age of sixteen years, being a child in his or her actual custody. Penalties are as immediately above.
- Under section 173, every one who has, an employer, contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years has a duty to do so. The employer would be criminally responsible for omitting without lawful excuse to perform that duty if the death of that servant or apprentice is caused, or if the latter's life is endangered or his health permanently injured by such omission. Every one is liable to imprisonment for a term not exceeding five years who, without lawful excuse, neglects that duty so that the life of the servant or apprentice is endangered or his health permanently injured by such neglect.
- Section 174 makes it an offence to abandon or expose any child under the age of six years, punishable by imprisonment for a term not exceeding seven years.
- Section 179 makes the killing of a child homicide if it dies as a consequence of injuries received before, during or after birth. A child becomes a human being once it is completely proceeded in a living state from its mother's body.
- Under section 198, where a woman causes the death of any child of hers under the age of ten years in a manner that amounts to culpable homicide, and where at the time of the offence the balance of her mind was disturbed, by reason of any disorder consequent upon childbirth or lactation, to such an extent that she should not be held fully responsible, she is guilty of infanticide and liable to imprisonment for a term not exceeding three years.
- Unless carried out in good faith to preserve the life of the mother, every one is liable to imprisonment for a term not exceeding seven years who causes the death of any child who has not become a human being in such a manner that he or she would have been guilty of murder if the child had become a human being (Sec. 202).

149. The Prevention of Juvenile Crimes Act 1968 provides that where any police constable, community youth officer, school inspector, visiting teacher, head teacher, or chairman of a village committee has reason to believe that a child is delinquent, or neglected, or indigent, or not under proper control or is persistently truanting or otherwise engaged in troublesome or mischievous behaviour or is living in an environment which is detrimental to his or her physical or moral well-being, that person may notify the Secretary of the Juvenile Crime Prevention Committee of such belief and the grounds thereof (Sec. 8). The Secretary shall send the notification to the Chairman of the Committee (Sec. 9).

After considering the notification and having regard to the interests of the child concerned therein and the public interest, the Committee may require the child, his parents, guardians, or custodians or any of them to appear before the committee (Sec. 10). At the end of the proceedings, the Committee may:

- (a) Admonish the child, his or her parents, guardians or custodians or any of them; and/or
- (b) Order certain conditions of conduct to be observed by the child, his or her parents, guardians or custodians, or any of them; or
- (c) Authorize the laying of any information or complaint in the Children's Court concerning the subject-matter at hand; or
- (d) Take no further action (Sec. 13).

150. To promote the development of children in the Cook Islands, the Ministry of Education is required under the Education Act 1986–87 to provide free and compulsory basic education (Sec. 4).

151. The Cook Islands Act 1915 (Sec. 504) provides that the Land Court may from time to time make such orders as it thinks fit for the payment or expenditure of any of the revenues or proceeds of the trust property to or for the benefit of the beneficiary, or for the maintenance of the children, adopted children, wife, or husband of the beneficiary.

Implementation

152. The rights expressed in article 6 of the International Covenant on Civil and Political Rights are fundamental tents of Cook Islands society and Government's national development efforts have as their overall aim to realize those rights, and more.

153. The Child Welfare Association has played a significant role in the high standard of maternal and child health in the Cook Islands. This voluntary organization was formed in the 1930's to ensure that mothers were fully aware of how to care for young babies, both before and after birth as well as to ensure good health of their children. The Association works closely with the Ministry of health and members have coordinated the construction and equipping of maternal health clinics throughout the Cook Islands. The Association's activities also include nutrition education, promotion and training in home gardening, training workshops on community promotion of child health, and organization of annual baby shows. They also follow up on mothers not attending maternal health clinics. The Association is mainly self funded but does receive some funding from Government and overseas agencies.

154. The incidence of crimes against children in the Cook Islands is impossible to determine for many cases are never reported to authorities. The number of probation reports ordered by the Court for persons 16 years and over is provided in table 1.8 these are mainly cases on Rarotonga. For the Outer Islands, security and safety issues are slightly different from Rarotonga, particularly on the smaller islands where community intervention in burglary and theft incidences is dominant over formal reporting.

Table 1.8

Probation Service reports

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
1999	94	6	100
2000	88	11	99

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
2001	102	9	111
2002 (Jan.–Sept.)	62	5	67

Source: Probation Services.

155. The types of programmes undertaken by the Probation Services of the Ministry of Justice are provided in table 1.9. Please note that the figures provided for the year 2001 only covers three islands – Rarotonga, Mangaia and Aitutaki.

Table 1.9
Probation Services programmes

<i>Programme</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
Truancy	34	42	24	25	113
Welfare General (Family Work)	22	92	91	121	41
Juvenile Crime Prevention Committee	5	51	4	3	25
Adoption		5	4	1	
Custody		7	2	NIL	NIL
Children's Court	4	4	5	3	11

Source: Probation Services.

156. The immunisation coverage rate for children is 95–100 per cent, the contraceptive prevalence rate is 45–53 per cent and the population is free from most infectious diseases. Access to safe water and sanitation is close to 100 per cent. Infant mortality rates reached an all time low in 1994 (5.5 deaths per 1,000 births).⁴

157. There are various community development programmes for children the most notable being the Takitumu Home Education Programme (THEP), to monitor the progress of all students in one village on the main island of Rarotonga attending schools in that district and the Rarotonga Environment Awareness Programme that promotes environment awareness amongst children (14 years and under). There are many religious youth groups that also support the development of children in the Cook Islands through their religious-based activities.

Constraints

158. The main difficulties in improving the health, survival and development of children are in ensuring equal access to opportunities and financial assistance to enable planning and implementation of development programmes and mechanisms to monitor those children at risk.

159. As noted in the introduction of this report, the economic reforms in 1996 resulted in a reduction in employment in the public service as well as a reduction in the wages of some of those remaining in the service. Child benefit payments were reduced and paid monthly instead of fortnightly; however, it has now reverted to being paid on a fortnightly basis and has increased from \$20 to \$30. The reforms also saw a reduction in the number of health professionals employed and saw the introduction of limited health user charges.

⁴ *A Situation Analysis of Children and Women in the Cook Islands 1998*, the Government of the Cook Islands with the assistance of UNICEF.

160. Pre-1996, teacher/pupil ratios were generous by standards in the South Pacific region. Since the reforms, a class size are now more in line with other countries but has had a detrimental effect on teacher standards according to 26 of the 31 principals surveyed.⁵ The reduction in school budgets led to an increased demand for community fundraising. School fees are not yet compulsory but there seems to be an increased level of coercion on some islands. School fees are not yet compulsory however; some schools do charge fees for exams and textbooks.

161. Drop out rates from secondary school is high. In the past, children that fail at certain levels in school are in general unable to remain at school due to limited school resources. However, a new national qualification for secondary school students is currently being phased in and will address the issue of skill-based qualifications.

162. Rates of truancy and theft by young offenders have increased since the reforms began and there are indications that anti-social group activity in Rarotonga is also increasing. Lack of staff to monitor truancy will always be a concern. The Juvenile and Welfare Division of the Ministry of Internal Affairs and Social Services is now responsible for those children who fail to attend school, previously, this was a responsibility of the Ministry of Justice. Officers of the Division prepare awareness programmes for schools, investigate the problems of truancy and, if necessary, refer cases to the Juvenile Crime Prevention Committee.

163. Services to encourage and promote child development at all levels on all islands are limited and therefore future leaders may lack the capacities to plan, manage and operate their sectors around them.

Future implementation considerations

164. The Government recognizes the need to pursue the issues raised above, for example, the dissemination of information on safe sex, truancy and the identification of students with special needs and is committed to doing so within the resources available and to establish appropriate programmes to resolve these concerns.

Article 12

Respect for the views of the child

Legal context

165. The views of the child in the Cook Islands are respected in various legal enactments. In addition to the Constitutional guarantee of freedom of expression, a child may give evidence in court. Under the Cook Islands Act 1915 [NZ], in any proceeding witnesses who are or appear to be under the age of 12 years may be examined without oath but any such witness shall in such case be required before being examined to make the following declaration: "I promise to speak the truth, the whole truth and nothing but the truth" or a declaration to like effect (Sec. 331). The Courts consider that children aged 12 years and older are competent to give evidence under oath (Sec. 326).

166. As well, under Section 461 of the Cook Islands Act 1915 [NZ], a court may not make any adoption order in respect of a child aged 12 or older unless that child gives his or her consent. The courts allow children the right to express their own wishes in custody disputes. The Code of Civil Procedure of the High Court 1981 allows an infant to take or

⁵ Cook Islands Economic Reforms, Social Impact Assessment, Prepared by Croydon Associations for NZODA, July 1997.

defend proceedings by a “next friend” or “guardian ad litem” (Rule 46) and also provides that any judgment can be set aside where no guardian has been appointed (Rule 54).

167. The Prevention of Juvenile Crimes Act 1968 provides for the jurisdiction of the Children’s Court (see discussion in relation to article 40 below). In any proceedings before the Court, no child shall be required to give evidence on oath (Sec. 37). The Children’s Court may require the presence of parents or legal guardian where children are heard by the Judge (Sec. 22). The hearing is strictly confidential.

168. Part V, section 56 of the Education Act 1986/87 provides for corporal punishment, however, the Act is quite clear that no principal or teacher may administer corporal punishment to any child for any reason unless there is an agreement with the school committee defining the occasions when such punishment can be administered. Such an agreement should be recorded in writing, signed by the principal and the school committee chairperson, and communication to parents, teachers and the pupil involved.

Implementation

169. Within the secondary school system, students have a voice through student representatives such as prefects and through the student council. Prefects are usually selected from senior classes and are elected by all the students. The Student Councils comprise representatives from all classes and provide opportunities for students to express their grievances and opinions on specific issues affecting their schooling. The high level of participation in the School Councils reflects the proactive role taken by some schools. The teachers establish the criteria for selection to the School Council, usually participation in school activities, sports, cultural groups, etc. An election among the student population is held and the final selection is subject to the approval of teachers and principal.

170. The Ministry of Internal Affairs and Social Services is responsible for youth affairs and together with the Police, Juvenile and Welfare Division of the Ministry of Justice and Punanga Tauturu Inc. have been involved with the protection of the rights of children and youth in the Cook Islands. In developing a Youth Policy for the Cook Islands, Ministry of Internal Affairs and Social Services consulted widely with the community including youth groups to ensure the Policy is as comprehensive as possible.

171. A survey of fifty college age students (12–18 years) on Rarotonga⁶ revealed a need for policy makers to engage in appropriate forms of consultation with youth and children particularly in colleges, uniformed organizations (e.g., scouts, girl guides, etc.), church groups and the National Youth Council. The survey sought views on youth and child development issues, including sex education. The results of the survey suggested that Government should carry out consultations with children and youth to find out their views on development policies. The survey revealed a lack of awareness in Government on what the needs of children and youth were as they relate to child and youth development policies and those children have their own views on sex education in schools and these issues must be considered in context of social development. Other workshops reinforce these comments, which signify that much more work needs, to be done to include the views of children and youth into Government policy and development plans.

172. There are cultural barriers such as respect for elders and a “child should be seen and not heard” that inhibit better communication between parents and children. Generally although there are several exceptions, children are not adequately encouraged to express

⁶ A Situation Analysis of Children and Women in the Cook Islands 1998, The Government of the Cook Islands with the assistance of UNICEF.

their opinions; neither are their views sought in decision-making that affect their lives at the family, community, school and national levels.

173. Physical punishment is widely practiced and culturally acceptable within most Cook Islands families as a means of disciplining children. Anecdotal evidence has shown that this form of punishment is on the decline through education and awareness-raising of positive guidance techniques as an alternative to physical punishment. Punanga Tauturu Inc. is currently providing support through workshops as well as counselling teachers referred to them by the Ministry of Education for anger management for counselling. Parenting Workshops are also provided to parents and caregivers, which address alternative ways of disciplining children and conflict resolution at home. Topics covered in the workshop include roles and responsibilities of fathers, mothers and children; making the home environment conducive for learning and peaceful for work and play; new methods of teaching the children morals and values through a programme called the Virtues Programme.

174. There are no institutional care facilities for children in the Cook Islands. Most children who are at risk or those who have been abused are usually taken into care by relatives or immediate family members under the supervision of the courts. More recently, however, there are signs that with a breakdown in the extended family (particularly for those families who have moved to Rarotonga from the Outer Islands or whose family members have moved to reside in Australia or New Zealand), there are difficulties with identifying suitable relatives or immediate family members to assist with children and youth at risk. In such a situation, the Ministry of Justice and Punanga Tauturu Inc. have had to contact church ministers and individuals in the community for support, sometimes these children are taken into the homes of sympathetic Police or Probation officers (at their cost).

175. The local newspapers allow children to express their views through the publication of poetry, art work, etc through columns especially dedicated for children.

Future implementation considerations

176. Children do not have many avenues available to them by which to express their views to an audience. In part, this is because, culturally, children's views are neither encouraged nor desired in many households. Parents will need to be educated as to the need for and benefits of child expression.

VI. Civil rights and freedoms

Article 7

Name and nationality

Legal context

177. The Births and Deaths Registration Act 1973 sets out a comprehensive regime providing for the registration of every marital and non-marital child born in the Cook Islands. Of particular importance for the purposes of this report are the following provisions:

- Section 10 requires the occupier of any premises in which a child is born to give notice to the Registrar of Births and Deaths within forty-eight hours of the birth – the date, names and address of the mother or father of the child and such other particulars as may be required.

- Section 11 requires the father and the mother of any child born in the Cook Islands and each person present at the birth to inform the Registrar within fourteen days of the birth of the particulars required to be registered concerning the birth of the child, provided that the father shall have no such responsibility if he is not married to the mother at the time of the child's birth and was not married to her at the time of the child's conception.
- Section 13 provides that, where any person required to give information under section 11 above in respect of any birth refuses or neglects to do so, the Registrar-General may at any time within two years after the date of birth of the child, authorize some person to give information required to enable him to register the birth.
- Section 15 provides that, where a child born out of the Cook Islands arrives in the Cook Islands before attaining the age of 18 months, and the parents or other persons having lawful charge of the child are about to take up their abode in the Cook Islands, an application may be made to the Registrar at any time within six months of the child's arrival for the child's birth to be registered in the Cook Islands.
- Section 16 requires any person in whose charge is placed a child found exposed or abandoned to register the birth of the child within seven days of the finding, providing such information as that person possesses.
- Section 17 permits the registration of a child's first or Christian name, or additional first or Christian name, within two years of the original registration where those names had not been registered in the first instance.
- Section 18 permits the parents of any child who has not attained the age of 21 and who has never been married, may by deed poll change either the surname or Christian name of the child.
- Section 19 provides that, where the parents of a child are not married to each other at the time of the child's birth and were not married to each other at, or since, the time of the child's conception, the child of an unmarried mother shall not be registered with the name of any particulars relating to any person as the father of the child except where the mother and the person acknowledging himself to be the father, jointly requests it.
- Section 45 stipulates that all entries in any register shall omit the word "illegitimate". Moreover, in making a certified copy of the entry in any register relating to the birth of any child who has been legitimated, the Registrar as the case may be, shall omit from the copy any note in the entry relating to legitimisation.

178. In accordance with the special relationship existing between the Cook Islands and New Zealand, all persons born in the Cook Islands are also New Zealand citizens by birth. Although the Citizenship Act 1977 [NZ] as originally enacted by the New Zealand Parliament continues to apply in the Cook Islands, the Act as amended in 1992 today governs matters relating to New Zealand citizenship. The following are provisions particularly relevant to Convention matters:

- Section 6: Every person born in New Zealand (for the purposes of the Act, including the Cook Islands) on or after 1 January 1949 shall be a New Zealand citizen by birth.
- Section 7: Every person born outside New Zealand on or after the 1st day of January 1978 shall be a New Zealand citizen by descent if, at any time of his birth, his father or mother is a New Zealand citizen otherwise than by descent.
- Section 9: In special cases, the New Zealand Minister of Internal Affairs may, upon application, authorize the grant of New Zealand citizenship to any person who is a

minor. The Minister may, upon application made to him in the prescribed manner, also authorize the grant of a certificate of citizenship to any person who may otherwise be stateless.

- Section 17 allows the Minister, by order, to deprive a person of his or her New Zealand citizenship if the Minister is satisfied that the registration, naturalization, or grant was procured by fraud, false representation, or the wilful concealment of relevant information, or by mistake.
- Section 19 allows any individual to seek a court review of any proposed order, which would deprive him, or her of New Zealand citizenship.

179. Although most Cook Islanders are New Zealand citizens, the status of a ‘Cook Islander’ or ‘permanent resident’ of the Cook Islands confers on the individual concerned benefits akin to those of nationality, particularly in relation to the right to enter, reside in and depart freely from the Cook Islands.

180. The Entry, Residence and Departure Act 1971–72 governs entry into, residence in and departure from the Cook Islands. For present purposes, the following provisions are particularly relevant:

- Section 2 defines the following terms:
 - An “adult” is any person who has attained the age of eighteen years or who, being under that age, is or has been lawfully married
 - A “child” is any person, who, not being an adult, has not attained the age of fifteen years
 - A “Cook Islander” is any person belonging to the part of the Polynesian race indigenous to the Cook Islands, and includes any person descended from a Cook Islander
 - A “permanent resident” is any person who has been granted a certificate conferring on him or her the status of a permanent resident pursuant to the Act
 - A “young person” is any person who is neither an adult nor a child
- Section 4 provides that none of the provisions in the Act relating to residence in the Cook Islands, removal or deportation from the Cook Islands shall apply to any Cook Islander, permanent resident or any child (born in or out of wedlock) of a permanent resident

181. Article 76 A of the Constitution provides that a person shall have the status of a permanent resident of the Cook Islands if he or she was born in the Cook Islands and:

(a) Either or both of his or her parents had the status of permanent resident of the Cook Islands at the date of his or her birth; or

(b) In the case of a child who was born after the death of his father to a mother who did not have the status of permanent resident at the date of birth of the child, his father had that status at the date of his death; or

(c) He or she was adopted by a person who at the date of adoption had that status.

Implementation

182. For the purpose of applying for a New Zealand passport, a child is a person under 16 years. Children require their own passport for any travel undertaken overseas. Previously, a

child (under 16 years) could travel with their parent(s) or guardian(s) if they had already been included in their parent(s) or guardian(s) passport. If consent is given by the child's guardian (someone who is not their parent), documentary proof of guardianship is required. This may include a Guardianship Order issued by a New Zealand or Cook Islands court or an original copy of a parent's will appointing a Testamentary Guardian and the parent's death certificate. A custody order is not acceptable for this purpose. A step-parent is not, in a legal sense, a child's guardian.

183. A child who as a New Zealand citizen is entitled, as of right, to a New Zealand passport as long as the consent of one parent is given. Under the New Zealand Passports Act 1992, a passport will be refused only if there is a court order made in New Zealand or registered in New Zealand from overseas, preventing the issue of a passport or removal of the child from its country of residence. A custody order that awards custody or access to a particular person will not prevent either parent from obtaining a passport for their child. All guardianship orders are enforceable in the Cook Islands and New Zealand.

184. Cook Islanders are New Zealand citizens and therefore if born overseas are entitled to a New Zealand passport if registered at one of the New Zealand overseas missions before their 22nd birthday. Failing registration, citizenship will lapse. A child's birth certificate may be obtained from the Ministry of Justice for a fee of NZ\$ 30.00.

185. Registration of children at birth in the Cook Islands will give them automatic succession rights to land in the Cook Islands from both the mother's and father's family if they are Cook Islands Maori. Children who are born overseas to Cook Islands parents may be registered in the Cook Islands for the purposes of land rights.

Article 8

Preservation of identity

Legal context

186. A significant amount of civil rights protection is afforded to Cook Islands children by the birth registration and citizenship legislation referred to above. Equal protection guarantees also apply to them.

187. The Citizenship Act 1977 [NZ] allows citizenship to be granted in exceptional circumstances of a humanitarian or other nature relating to the applicant, provided that the Minister is satisfied that granting a certificate of New Zealand citizenship to the applicant would be in the public interest.

188. As indicated under the previous article, before making an order under the Citizenship Act 1977 [NZ] depriving any person of New Zealand citizenship, that person has a right to appeal such a proposed order to the High Court (section 19).

Implementation

189. All people of the Cook Islands are accorded respect and the right to live harmoniously with due deference to their customs and traditional way of life.

190. The preservation of Cook Islands cultural identity is important in the Cook Islands. In practice the Ministry of Education supports teaching of the Cook Islands Maori language and the maintenance of Cook Islands cultural identity.

191. The Cook Islands Maori language and the English language are the official languages of the country. The Cook Islands Maori language is taught formally throughout primary school. For most schools English and Cook Islands Maori has equal use as the

medium for instruction in schools. English is becoming the first language for most students based on Rarotonga while Maori has become a second language.

Article 13

Freedom of expression

Legal context

192. Article 64 of the Cook Islands Constitution guarantees the freedom of speech and expression.

193. Article 64 of the Constitution also recognizes and declares that every person has duties to others and accordingly is subject in the exercise of his rights and freedoms to such limitations as are imposed by any enactment or rule of law for the time being in force, for protecting the rights and freedoms of others or in the interests of public safety, order, or morals, the general welfare, or the security of the Cook Islands.

194. Under the Crimes Act 1969, any person who publishes a criminal libel or commits criminal slander is liable to imprisonment for a term not exceeding one year (sections 233, 237 (1), 238). A person publishing a criminal libel or committing criminal slander knowing it to be false is liable to imprisonment for a term not exceeding two years (sections 237 (2), 238).

195. Under the Crimes Act 1969, no person shall be convicted of an offence by reason of any act done or omitted by him when under the age of ten years (Sec. 24). No person shall be convicted of an offence by reason of any act done or omitted by him or her when of the age of ten but under the age of fourteen years, unless he or she knew either that the act or omission was wrong or that it was contrary to law (Sec. 25).

196. Under section 13 of the *Electoral Act 1998*, any person 18 years of age or older is eligible to vote and is eligible to be elected to Parliament.

197. In custody matters, children can express their preference as to which parent they want to live with, although the Court makes the final decision as to what is in the best interest of the child. See also discussion under article 12 above.

198. The right to seek information is enshrined not only in the Convention but also in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (the latter being a treaty to which the Cook Islands has been bound through New Zealand since 28 March 1978).

199. On giving evidence in judicial proceedings, see also discussion under article 12 above.

200. The right of children in the Cook Islands to express their views and ideas was again confirmed when the Government of the Cook Islands ratified the Convention on the Rights of the Child.

Implementation

201. Children in the Cook Islands express their views in various ways. The daily newspaper, the Cook Islands News, runs a “children’s corner” every Saturday where views of children from various schools are published. Most secondary schools have annual school magazines that highlight activities of the school and views of the students throughout the year. Financial assistance to produce such school magazines is sought by students from businesses in the private sector.

202. Public competitions for children including art competitions and essay competitions are held frequently with the artwork of a secondary school student having been used for the Convention for the Rights of the Child poster.

203. The Takitumu Home Education Programme was established in 1999 in one district (Takitumu) on Rarotonga. The Programme arose out of the concern of the Takitumu Vaka Council at the declining academic performance of the students attending the secondary and primary schools in their district. With the support of concerned parents and some businesses, the Programme aimed to improve the standard of education of the children in the district and to assist and encourage the parents to provide a healthy and harmonious learning environment in the home. Specifically, the Programme would work in partnership with the school especially in the area of homework and home studies and assist parents to ensure that the children are adequately prepared for school during the school week. Each child is required to note down in their Homework Diaries provided by the Committee of the progress of the implementation of their homework. Their progress is then checked daily by the parent/guardian and then by the teacher/councilor responsible for each village within the district at the end of the week. The student who is then selected as the most outstanding in the programme is provided with a reward at the end of the school year. The past winners have won for themselves a computer package sponsored by various businesses on the island. The Climate Change Division of Environment Services funded a substantial portion of the diary and it therefore provided within the diary, information and relevant material on the issues of climate change.

204. The 'Home Education' programme has now been duplicated on two outer islands – Atiu and Aitutaki. The Ministry of Education received funding from UNESCO to adopt this programme — the Cook Islands Home Education Programme — for the entire Cook Islands. One of the aims of the Programme is to establish district sub-committees to visit homes and provide advice and guidance to parents on child rearing practices. For example, the valued role of home shared reading for early childhood and primary children, or a supportive and regular homework and study environment for secondary students, or the importance of good and regular nutrition in a child's growth. In conjunction with schools and teachers the Programme will establish a system of regular home study for students and to assist parents and schools to monitor and supervise home study. The Programme will also identify those students with special needs and make parents aware of those needs and assist them to provide an appropriate home learning environment.

205. Influence of western cultures in the Cook Islands both through the development of tourism and easy access to New Zealand and Australia has increased children's awareness of global issues as well as encouraging children to express themselves and to be outspoken.

Article 14

Freedom of thought, conscience and religion

Legal context

206. Article 64 of the Constitution guarantees freedom of thought, conscience and religion for everyone. See also discussion under articles 2 and 13 above.

207. Section 55 of the Education Act 198–87 requires every teacher to respect the right of every child to be treated with understanding, dignity and respect.

208. The Religious Organizations Restrictions Act 1975, as amended, provides that the Minister of Justice will not withhold approval for the establishment of any religious organization in the Cook Islands unless satisfied that such establishment would be contrary

to local customs and practices, public safety, order or morals, or the general welfare or security of the Cook Islands (Sec. 2).

Implementation

209. Religion is an integral part of Cook Islands culture and society. Many churches of different denominations are located on each island and also in each major village. In the 1996 Census, 94 per cent of the resident population claimed an affiliation to a Christian denomination. That number has not really varied since the 2001 Census. The churches play a major role in promoting personal, spiritual, emotional, mental and physical development thereby assisting people to become valued members of the community. Churches provide formal education for about 12 per cent of school children in the Cook Islands. They also provide a wide range of non-formal education opportunities including religious studies, youth groups, music, drama and sports and counselling.

210. There are three religious groups who have established their own schools, the Roman Catholic, Seventh Day Adventist and the Assembly of God. Schools conduct religious instruction according to their particular affiliation. The national secondary school Tereora College provides for religious instruction from the main affiliations once a week. No child can be excluded, from enrolling in a school because of his or her religious belief or creed. Religious instruction is not compulsory.

211. The dominant religions in the Cook Islands are the Cook Islands Christian Church as the largest denomination with 10,498 (58 per cent) members. The next most populous group is the Roman Catholic Church with 3,0765 members followed by the Seventh Day Adventist. There has been a rise in the number of Apostolic Churches in the Cook Islands over the last three years.

212. Most Cook Islands children grow up in households where religion is actively practiced, but all major faiths report that children are moving away from formal religious organizations and even from religious celebrations in the home when given the choice. Some groups are trying to make their religious practices more attractive to children by providing more creative education programmes, by modernizing religious music and rites, and by holding special social gatherings for young people.

213. The Religious Council is representative of all major religions in the Cook Islands. It provides guidance and advice on religious matters and facilitates interdenominational services.

Article 15

Freedom of association and freedom of peaceful assembly

Legal context

214. Article 64 of the Constitution provides for freedom of peaceful assembly and association. See also discussions under articles 2 and 13 above.

Implementation

215. In practice, children in the Cook Islands belong to various youth, sport and church groups and they are also free to assemble and associate with other persons in a wide range of communal and family activities.

216. Sports clubs provide opportunities for development of physical skills and instill positive attitudes towards working together for the betterment of the individual and the community.

217. These activities include girl guides, scouts, schools, sporting organizations and voluntary organizations active in coordinating cultural, sporting and religious activities for young people sometimes during school holidays.

Article 16

Protection of privacy

Legal context

218. Cook Islands law does not recognize a general right of privacy. Nonetheless, certain kinds of interference with an individual's privacy, family, home or correspondence or attacks on an individual's honour and reputation, unless clearly authorized by a rule of law, would be cause for a civil claim. In addition, the Crimes Act 1969 makes other kinds of interference criminal offences. In the latter regard, see, for example, the discussion under article 13 above.

219. Under the Criminal Procedure Act 1980–81, a Judge or Justice or the Registrar of the High Court may issue a search warrant if he is satisfied on the oath of any person that there is reasonable ground for believing that there is in any building, aircraft, ship, vehicle, box, receptacle, premises or place anything upon or in respect of which any offence punishable by imprisonment has been or is suspected of having been committed, or anything which there is reasonable ground to believe will be evidence as to the commission of any such offence, or anything which there is reasonable grounds to believe is intended to be used for the purpose of committing of any such offence (Sec. 96).

220. Under the Telecommunications Act 1989, it is an offence to divulge the content or substance of a telecommunications message without authority of the person who sent the message or intercepts or does an act which will enable him or another person to intercept information passing over a telecommunications system except in the course of his normal duties (Sec. 41). Section 41 F of the Act further states that where Telecom Cook Islands (TCI), the national telecommunications and postal service provider) has reason to suspect that any postal article contains any dangerous enclosure, or is otherwise in contravention of any law, it may detain the postal article for opening and examination. Every postal examination that is detained may be opened at a TCI Office by two or more persons specifically authorized for the purpose of TCI or by one such officer in the presence of another employee of TCI, or a Customs official. The addressee or sender of the article will be notified.

221. Under section 9 of the Evidence Act 1968, a minister of religion shall not divulge in any proceeding any confession made to him or her in his or her professional capacity, except with the consent of the person who made such confession. Nor may a physician or surgeon divulge in any civil proceeding any communication made to him or her in his or her professional capacity by a patient, and necessary for him or her to prescribe or act for such patient, without the consent of that patient, unless the sanity of the patient is the matter in dispute.

Implementation

222. The laws and practices of the Cook Islands are consistent with article 16 of the Convention however it should be noted that there are no specific laws that address the issue of privacy per se.

223. Legal protection of a young person's right to privacy and confidentiality about their health is governed by the doctor-patient relationship of confidentiality. All doctors in the Cook Islands are required to take the Hippocratic Oath. Children less than 16 years of age

require parental consent to receive all health services. Patients have a complete right to privacy and confidentiality in all areas of medical care such as contraceptives and antibiotics and in seeking treatment for sexually transmitted diseases at all times.

Article 17

Access to appropriate information

Legal context

224. The Broadcasting Act 1989 sets out programme guidelines with respect to: material offensive to community standards of the people of the Cook Islands; the depiction of sexual activities, violence and the use of drugs; and the amount of time to be assigned to cultural, educational, informational, religious, news, documentary and current affairs programmes.

225. The following provisions of the Films and Censorship Act 1985 are relevant to this article:

- Section 16 provides that no person shall exhibit any film (other than those specially exempted, such as films made for educational purposes) unless it has been approved by the censor for public exhibition and shall be liable to a fine not exceeding \$500
- Section 18 states that the censor may approve the exhibition of a film, with or without excisions and subject to such restrictions as to classes of persons who may see the film
- Section 23 provides that no one shall sell or rent to the public or offer or expose for sale or renting to the public any videotape except with the approval of the censor and under such conditions as he or she may impose, and shall be liable to a fine not exceeding \$500
- Section 28 contains provisions similar to the above governing documents and sound recordings
- Section 32 provides that every person commits an offence who sells, delivers, gives, exhibits, or offers any indecent document or sound recording to any person under the age of 18 years and shall be liable to a fine not exceeding \$500
- Section 33 prohibits the importation of any indecent film or document

226. See also discussion under articles 2 and 13 above regarding constitutional guarantees of freedom of speech and expression.

Implementation

227. The press in the Cook Islands is free although limited by laws on obscenity, offending religious feelings and defamation of character.

228. There is one daily newspaper in circulation in the Cook Islands, the Cook Islands News and a number of weekly papers – the Cook Islands Herald.

229. The arrival of television in 1989 has provided a further source of information. Local news broadcasts are produced daily and current affairs programmes are received from Australia, France, New Zealand, and the United States.

230. A wide range of international publications is available, particularly on Rarotonga, including many of interest primarily to young people and children. There are two privately owned radio stations, an AM and FM station.

231. There are two public libraries on Rarotonga, both of which have sections particularly dedicated to publications for children.

232. There are two languages used through the media: English and Cook Islands.

233. Censorship is governed under Section 21 of the Films and Censorship Act 1985. The censors will determine whether the exhibition of any film or video is likely to be or not to be offensive or undesirable in the public interest. The Censor may prohibit underage viewing of restricted movies. The Censor has no control over publications. Customs have the power to confiscate any pornographic materials they find that could be considered to be indecent. In this way children are partly protected from exposure to inappropriate information, especially pornography, sexual explicitness and violence.

234. Children have wide access to information about social and cultural issues through their schools, public libraries and the media.

235. Where a child is a victim of abuse, he or she can receive counselling from the Juvenile Welfare Division and organizations such as the Punanga Tauturu Inc. about their rights, seeking protection, and the legal process for redress. Legal literacy leaflets are made available through the work of Punanga Tauturu Inc.

236. No pornographic material (e.g. magazines, etc) is sold in the Cook Islands, although sex-related material is understood to be imported by adults for their own personal use.

237. The Community Police Unit has been implementing Law Related Education Programmes in the schools with the cooperation of the teachers in the schools. Police see participation in education as an integral part of current approaches to policing which place greater emphasis on community involvement. The Unit used the media, brochures, posters, school visits, youth group and NGO workshops and home visits to promote the Programme. The Programme is designed to encourage young people to take responsibility for their own safety and well being and that of others in their community. Programme objectives include reducing crime and traffic accidents involving young people and improving the communication and decision-making skills of young people and enabling them to take a more responsible role in society. The four strategic themes of the Programme are:

- Crime Prevention and Social Responsibility – to enhance young people’s perceptions of social responsibility and to foster partnership with the police in crime prevention initiatives
- Drug Abuse Resistance Education – to enable young people to avoid illegal drugs, to make sensible choices about the use of alcohol and other drugs and to seek help when required
- School Road Safety Education – to enable young people to learn skills needed to act safely and confidently on roads and other places associated with traffic
- Violence prevention – to enable young people to develop non-violent relationships and to learn skills needed to manage situations where the risk of violence is evident

238. Educational material on the Convention has been widely distributed at workshops, schools and libraries. Media programmes and publications have included the viewing on national television of cartoons on the various articles of the Convention, including regional documentaries on the Convention.

239. Extensive media coverage in local and regional newspapers and radio programmes on the issue of commercial sexual exploitation of children was undertaken by a media representative following her attendance along with a representative from government to the “First Pacific Regional Conference on the Prevention of the Commercial Sexual Exploitation of Children” held in Suva, Fiji in 1999 and sponsored by ECPAT (End Child

Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) an NGO based in Australia.

240. The Pan Pacific South East Asia Women's Association (PPSEAWA) has developed Peace Centres or reading nests in the public libraries and two primary schools on Rarotonga. PPSEAWA volunteers read stories to the children and encourage participation in drama, song and dance. Since 1998, reading nests have been developed on a number of outer islands.

241. The Rarotonga Environment Awareness Programme (REAP) is a NGO established to promote environmental awareness amongst children. Groups of environmental rangers have been formed for children between the ages 6–12 years. This programme has now been duplicated in the outer islands – Atiu, Mangaia and Mitiaro. These organizations have been extremely proactive in keeping the public physical environment clear and safe. They have also undertaken a number of unique awareness raising activities targeting children to promote a healthy environment, for example, painting garbage cans, collecting garbage along public beaches, recycling plastics by making creative art works out of them.

Future implementation considerations

242. It is recognized that television, videos and movies are key socializing agents for children and require close monitoring and parental control. Widespread public concerns have improved warnings for television programmes with closer scrutiny by proprietors of cinema theatres of the age of children attending movie theatres. Parents need to be involved more in choosing the programmes that children watch. Video viewing poses a larger threat because it is largely unregulated.

243. Legal literacy training will be continued by Punanga Tauturu Inc. and information on legal rights will be disseminated through government and NGO channels.

Article 37

Torture and deprivation of liberty

Legal context

244. Article 65 of the Constitution prohibits the imposition on any person of cruel and unusual treatment or punishment. Legal remedies are available through the courts to a complainant who has suffered a breach of his or her rights under the Constitution.

245. Article 65 of the Constitution also recognizes, inter alia, the right of any person arrested or detained “wherever practicable to retain and instruct a barrister or solicitor without delay” and to apply, by himself or herself or by any other person on his or her behalf, for a writ of *habeas corpus* for the determination of the validity of his or her detention, and to be released if his or her detention is not lawful.

246. In addition to those sections referred to in the discussion under articles 6 and above, the following provisions of the *Crimes Act 1969* are particularly relevant to this article:

- Everyone is liable to imprisonment for a term not exceeding two years who assaults any child under the age of fourteen years or, being a male, assaults any female (Sec. 214)
- Everyone is liable to imprisonment for a term not exceeding five years who, having the custody, control or charge of any child under the age of sixteen years wilfully ill-treats or neglects the child, or wilfully causes or permits the child to be ill-treated, in a manner likely to cause him unnecessary suffering, actual bodily harm, injury to health, or any mental disorder or disability (Sec. 215)

- Section 24 provides that no person under 10 years of age shall be convicted of an offence while no person between 10–13 years of age shall be convicted of an offence unless he knew either that the act or omission was either wrong or contrary to law

247. The Prevention of Juvenile Crime Act 1968 establishes a Juvenile Crime Prevention Committee to make enquiries into any child under the age of 16 who is believed to be a delinquent, neglected, indigent or who persistently truants or engaged in mischievous behaviour.

248. The Prevention of Juvenile Crime Act 1968 also establishes the Children’s Court where a Justice or Judge will hear and determine cases involving children under 16 years of age in private hearings. See also discussion under articles 3 and 6 above and 40 below.

249. Under the Criminal Procedure Act 1980–81, where any person convicted of an offence punishable with death was under the age of 18 years at the time of the commission of the offence, or if the person convicted is a woman and is pregnant, the sentence to be passed on him or her shall be a sentence of imprisonment for life, instead of a sentence of death (Sec. 120). Section 84 of the Act further allows that where any Court remands for the period of any adjournment any defendant who appears to the Court to be under 21 years, the Court shall release him or her on bail or otherwise subject to such conditions as it thinks fit, or, if the defendant appears to be under the age of 18, may remand him or her in the custody of a Probation Officer or any other reputable adult person provided that the Court may in any case in which such a defendant would not be bailable as of right, other than by that Section, direct that he or she be detained in a prison if in the opinion of the Court no other course is desirable, having regard to all the circumstances.

250. Under the Criminal Justice Act 1967, the Parole Board established pursuant to Section 14 of the Act may make recommendations to the Minister of Justice as to the release of any offender undergoing imprisonment for life, either five or ten years after incarceration depending on the circumstances and, if the individual is not paroled, at regular intervals thereafter (Sec. 17).

251. Although Regulation 157 of the Prison Regulations 1968 provides that, so far as practicable, inmates under the age of 21 years, whether they are inmates awaiting trial or inmates detained after conviction, shall be kept apart from inmates of or over that age, the Cook Islands made the following reservation to this article:

“The Cook Islands accepts the general principle of Article 37 and the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible. The Cook Islands reserves the right not to apply Article 37 in so far as those provisions require children who are detained to be accommodated separately from adults.”

Implementation

252. In practice, it is sometimes not possible for space limitation reasons to separate juvenile from adult prisoners. The children’s quarters are being used for low risk offenders and therefore there are no facilities for youth offenders.

253. There are currently no facilities at the Rarotonga Hospital for the safe accommodation and treatment of the mentally ill to keep them from harming themselves and others. The Cook Islands main prison, the Arorangi Prison on Rarotonga, has been used for this purpose. This could also be the case with respect to mentally ill children although it is much more likely that alternative care facilities would be provided should the need arise.

Future implementation considerations

254. It will be noted that the Crimes Act 1969 is silent regarding assault, as it does not explicitly make it an offence for females to assault the boy child. Although, this offence can be covered by other legislation, it is envisaged that the Act can easily be amended to correct this oversight.

255. Currently, there is no consideration given in the Prevention of Juvenile Crime Act 1968 to children between the age of 17 and 18 years. This age group is treated as adult offenders under the Crimes Act. This discrepancy will be addressed in the near future.

256. Consideration is also being given to children to ensure that they have access to free legal assistance.

257. The possibility of the development of a community corrective centre for low risk offenders has been discussed; however, the availability of resources will dictate the progress of implementation of this project.

258. There is a continuing need to protect child witnesses in court from intimidation by the accused. Consideration is being given to the use of child witness screens as it has been noted that other jurisdictions such as Australia, England and Wales practice screening children without a specific legislative provision.

259. Training of nurses and medical staff to enable them to identify abuse, so they are familiar with injuries consistent with abuse will continue.

260. It is acknowledged that compulsory psychiatric assessment for a repeat offender is necessary.

Article 40

Administration of juvenile justice

Legal context

261. Article 65 of the Constitution provides that subject to that provision of the Constitution relating to the rights of others (see discussion under article 13 above) and the construction of law below, no enactment shall be construed or applied so as to:

- Deprive any person charged with an offence of the right to be presumed innocent until he or she is proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or
- Authorize the conviction of any person of any offence except for the breach of force in law at the time of the act or omission, or
- Deprive any person who is arrested or detained:
 - Of the right to be informed promptly of the act or omission for which he or she is arrested or detained, unless it is impracticable to do so or unless the reason for the arrest or detention is obvious under the circumstances, or
 - Of the rights referred to in the reference to article 65 of the Constitution in the discussion under article 13 above

262. In addition to those provisions of the Prevention of Juvenile Crime Act 1968 referred to in the discussions under articles 1, 3, 6, 12 and 37 above, the following provisions of the 1968 Act are also relevant to this article.

Implementation

263. In practice, there is no legal aid system that is available to children who are in trouble with the law. A Law Related Education Programme is implemented by the Police Department to encourage young people to take responsibility for their own safety and well-being and that of others in their community.

264. The Prevention of Juvenile Crime Act 1968 also establishes a Juvenile Crime Prevention Committee to hear complaints laid by community authorities, such as Youth Officers, head Teachers, Police or village leaders but not including either nurses or juvenile welfare officers. In practice, however, nurses and juvenile welfare officers are included in the discussions regarding the complaint. The Committee deals with children under the age of 16 years. It will hear and decide how best to deal with the case. Appropriate action to be taken may include a warning, admonishment and/or placement of the child under supervision. If the case is serious, it is referred to the Children's Court.

265. The Children's Court is physically separate from other Courts. In the Children's Court, cases are discussed in closed sessions. Legal assistance is available and provided by the Ministry of Justice. The current practice in the Children's Court requires the presence of their parents/legal guardian or legal representative when the Judge or Justice of Peace hears the case. The hearing is strictly confidential. The Children's Court deals mostly with re-offenders and serious crime committed by children less than 16 years of age.

VII. Family environment and alternative care**Article 5****Parental guidance and the child's evolving capacities****Legal context**

266. The Cook Islands Protection of Children Ordinance 1954 gives explicit recognition to Cook Islands custom whereby both parents and extended family/community have or may have certain rights and responsibilities to provide direction and guidance to children.

267. In the Cook Islands, the evolving capacities of the child are widely recognized and are taken into consideration by parents, the extended family and the community in the socialization process.

Implementation

268. Home Education programmes have been increasing over the last few years due to the lack of qualified staff at some schools as well as the lack of choice of subjects offered at schools. This may include the formal distance education programmes through correspondence schools in New Zealand. Courses are provided at various levels however, they have not proved to be as successful as hoped. There are delays in receiving materials and language difficulties for those that have little support from trained personnel.

269. The public libraries are also well used in the Cook Islands and are the venue for a weekly language development programme for children organized by the Pan Pacific South East Asia Women's Association (PPSEAWA). The public also has access to small specialist libraries in various government Ministry's such as that of Agriculture, Marine Resources, Foreign Affairs and Environment Services.

270. Non-government organizations are very active in providing workshops to improve the development of children and parental care. School Committees have been active in

ensuring their school maintains a high standard of parental guidance ensuring that the rules of the school are followed.

Article 9

Separation from parents

Legal context

271. The Cook Islands Act 1915 contains the following provisions relevant to this article. These include:

- Section 538: The High Court may on the dissolution of marriage, or at any time and from time to time thereafter, make such order as it thinks fit as to the custody of the children of the marriage.
- Section 542: The High Court shall have power in the ordinary course of its civil jurisdiction to make maintenance and affiliation orders.
- Section 545: On application made to the High Court by an unmarried woman who is the mother of an illegitimate child or who is with child, the Court may, if satisfied that the defendant is the father of that child, make an order adjudging the defendant to be the father of that child accordingly. Application shall be made before or within 6 years after the birth unless there are special circumstances and no application shall be made unless the child is under 12 years of age.
- Sections 547–549 provide for maintenance orders against the father or mother in favour of the child.
- Sections 570–571: Leaving the Cook Islands while failing to maintain a child as well as leaving the Cook Islands with intent to desert a wife or child are offences.

272. The Infants Act 1908 [NZ], in force in the Cook Islands, provides that the Court may, on the application of the father or mother of any infant, make such order as it thinks fit regarding the custody of such infant and the right of access of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father.

273. The Court may, in its discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian or any other guardian appointed or acting under the Infants Act 1908 [NZ] and may also, if it deems it to be for the welfare of the infant, appoint another guardian (Sec. 7).

274. The Guardianship of Infants Act 1926 (NZ), in force in the Cook Islands, provides that where in any proceeding before the High Court the custody or upbringing of an infant, or the administration of any property belonging to or held on trust for an infant, or the application of the income thereof, is in question, the Court, in deciding that question shall regard the welfare of the infant as “the first and paramount consideration”. Section 3 provides that the mother of an infant shall have the like powers to apply to the High Court or any other Court of competent jurisdiction in respect of any matter affecting the infant as are possessed by the father.

275. Under s. 462 of the Cook Islands Act 1915, no order of adoption shall be made without the consent of the parents or of the surviving parent (if any) of the child, whether that child is legitimate or illegitimate.

Implementation

276. Any application to the Courts for the custody of a child must be accompanied by a welfare report prepared by the Probation Services. The Judge takes the following matters into consideration when deciding to whom to award custody of the child: (i) Welfare principle — what is in the best interests of the child; (ii) the situation of the home — any hostility between the parties; emotional, physical and educational wellbeing of the child; (iii) the financial position of the Parties; and (iv) the existing arrangements and whether these will be continued.

277. The grandparents of the child may apply for custody. In most cases before the civil courts, the mother applies on behalf of the grandparents. Custody will be granted so long as reasonable access is granted to the other parent of the child. Once a child turns 16 years and wishes to take up residence with the parent not awarded custody, that child may request a re-hearing of the custody case with a view to custody being awarded to the parent of his/her choice.

278. During divorce proceedings, arrangements are made for the custody of the child including the possible removal of the child to reside with a parent overseas. If the other parent refuses to allow the child to reside overseas, custody proceedings would be required.

279. An unmarried mother is the legal guardian of the child however the father can apply to the court for custody.

280. The courts will remove the child from the parents if there is evidence that the child will be harmed either physically or mentally if s/he continues to reside with the parents.

281. The Cook Islands Enforcement Regulations 1948/13 [NZ] covers three matters: enforcement of overseas maintenance orders; confirmation of overseas provisional orders and Cook Islands provisional orders. It is very difficult to enforce maintenance orders for those parents who have left the Cook Islands to reside permanently overseas, primarily because the parent remaining in the Cook Islands does not have an address for that parent. All payments for maintenance are based on the parent's ability to pay.

Article 10

Family reunification

Legal context

282. The following provisions apply under the Entry, Residence and Departure Act 1971-72:

- Section 4, the following persons are exempt from the application of the Act: any Cook Islander or permanent resident or any child (born in or out of lawful wedlock) of a permanent resident.
- Section 9, no person shall be entitled lawfully to enter the Cook Islands if, being an adult or young person, he is not, on his arrival in the Cook Islands, in possession of an entry permit or residence permit duly issued to him or, being a child, neither he nor some person on his behalf, is, on his arrival in the Cook Islands, in possession of an entry permit or residence permit duly issued to him or in relation to him.
- Section 17, a person is considered to have legally entered and resided in the Cook Islands if that person is in possession of a current residence permit. Once an alien is lawfully within the Cook Islands, there is no restriction on his movements.
- Section 24, any adult or young person may apply for a residence permit to be granted to him and to any of his children accompanying him. Any person who has

the custody, care or control of a child who is not accompanied by a parent may apply for a residence permit to be granted to such child. Where the Minister has issued a residence permit to or in favour of a person employed by the government, he shall without any undue delay issue a suitable residence permit to or in favour of the spouse and any child.

283. In acceding to the Convention, the Cook Islands made the following reservation to this article in order to protect its vital interests:

1. The Cook Islands reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the Cook Islands of those who do not have the right under the law of the Cook Islands to enter and remain in the Cook Islands and to the acquisition and possession of citizenship, as it may deem necessary from time to time.

Implementation

284. A bona fide visitor means any person who enters the Cook Islands solely for the purpose of a holiday or recreation, and does not engage in the practice of any profession, or occupation, business, trade or other commercial enterprise. A bona fide visitor to the Cook Islands is granted a visa for thirty-one days on producing a return ticket out of the Cook Islands.

285. The departure of aliens, Cook Islander and permanent residents from the Cook Islands involves a simple formality required of any person departing any State, as well as satisfying any financial obligations outstanding to the Ministry of Finance and Economic Management.

286. The reservation would not obligate Government to allow entry of non-Cook Islanders or non-permanent residents where Government had determined that it was not appropriate to do so.

Article 11

Illicit transfer and non-return

Legal context

287. International child abduction by parents locked in a dispute over the custody of the child or otherwise, is currently not an issue of pressing concern in the Cook Islands, although it may conceivably pose problems in the future. Two legislative provisions are relevant to this article.

288. The Entry, Residence and Departure Act 1971-72 provides that no “young person” or child shall enter the Cook Islands from any place outside the Cook Islands or leave the Cook Islands for any place outside the Cook Islands except with the authority of the Minister, and a declaration has been made and on his behalf by an accompanying adult (or, in the case of a child, either an accompanying adult or young persons).

289. The Crimes Act 1969 makes it an offence punishable by up to seven years imprisonment to deprive a parent or guardian or other person having lawful custody of any child under the age of 16 of the possession of that child, or with the intent to have sexual intercourse with any child being a girl under that age, unlawfully either takes or entices away or detains the child, or receives the child, knowing that the child has been so taken or enticed away or detained. It is immaterial whether or not the child consents.

Future implementation considerations

290. Article 11, paragraph 2 of the Convention encourages States Parties to accede to existing arrangements on child abduction and to promote the conclusion of bilateral and multilateral agreements on the same subject. The 1980 Hague Convention on the Civil Aspects of International Child Abduction is relevant in this regard. It ensures custody and access to the child are respected by contracting parties. The Cook Islands is not yet a Party to the 1980 Hague Convention or other treaties of a similar nature, although steps could be taken in that regard as necessary.

**Article 18
Parental responsibilities****Legal context**

291. The Welfare Act 1989 obliges Government to pay to each mother a child benefit of \$40.00 per month per child under the age of ten years; however, it may be paid to the father, in the latter case, the father will have to consult with and seek the approval of the Chief Examiner of Child Benefits. All money received shall be used towards the maintenance or education of the child. A 'child' includes "a step-child, an adopted child and any child who, though not a member of the applicant's family, is maintained as a member of that family".

292. The Education Act 1986-87 imposes an obligation on both parents to ensure that their school age children attend school from the age of five to fifteen years.

293. There are provisions in the Crimes Act 1969 which make it an offence for any person, including parents who fail to provide necessities of life, or who wilfully neglect children.

294. The Cook Islands Act 1915 deals with maintenance and affiliation of children including illegitimate children.

295. The Protection of Children's Ordinance 1954 provides penalties for guardians or persons who have custody, control or charge of a child being a boy under the age of 14 years or a girl under the age of 16 years wilfully ill-treats, neglects, abandons or exposes such child or causes or procures such child to be ill-treated.

296. Refer to articles 3 and 37 of this report for more information on neglect of children.

Implementation

297. Parents have joint primary responsibility for raising the child as provided in the Education Act and the Crimes Act. The legal context as defined by the provisions reflects the contemporary values of Cook Islands society.

Future implementation considerations

298. Provisions under the Protection of Children's Ordinance 1954 should be reviewed to ensure that there are no discrepancies in the application of age differences between boys and girls.

299. To ensure that in the practise the various articles of the Convention are satisfied, it is necessary to set up information systems to monitor the welfare of all children particularly for those who are most disadvantaged. The National Advisory Body for Children is charged with the responsibility to implement the Convention on the Rights of the Child in a way

that ensures the rights of Cook Islands children are truly being met and not just to satisfy minimum requirements under the Convention.

Article 19

Protection from abuse and neglect

Legal context

300. The Cook Islands Crimes Act 1969 sets out a list of activities that are considered to be criminal with the clear intention to provide legal protection to children who are physically or sexually abused and neglected. Assault, rape, defilement, incest and prostitution are criminal offences that carry a range of penalties. Sexual intercourse or indecency with a girl under the age of 12, or a girl between 12 and 15 carries a heavy term of imprisonment, and that the girl has consented is no defence, nor that the person charged believed the girl was over the age of 12 or 15 as the case may be. Similar provisions in respect of the boy child protect male children from sexual abuse.

301. The Cook Islands Act 1915, provides that every person who is the husband of any woman or the father of any child, and who leaves or attempts to leave the Cook Islands with the intention of failing without reasonable cause to make adequate provision of children for the maintenance of that wife or child during his absence, is guilty of an offence punishable by imprisonment for a term not exceeding two years. In practice, an applicant can make an application to the court for the matter to be registered in a New Zealand court and for that person to be summoned and ordered to make payment.

302. Under the Prevention of Juvenile Crime Act 1968, where a complaint is made in the court by any constable that any child is a neglected, indigent or delinquent child, or is not under proper control or is living in an environment detrimental to his physical or moral well-being, any judge or justice may issue a summons addressed to any parent, guardian or custodian of the child requiring him to appear before the Children's Court with the child. If it appears to the judge or justice that the child is living in a place of ill-repute, or is likely to be ill-treated or neglected, or that for any other reason the child should be removed from his surroundings, the judge or justice may issue a warrant authorising any constable to take possession of the child. A warrant may authorize any person to receive and hold such a child until the complaint has been disposed of.

303. Following an amendment in 2000, the Prevention of Juvenile Crime Act 1968, provides that a Judge of the High Court shall exercise jurisdiction in the Children's Court.

304. For the purposes of the Prevention of Juvenile Crime Act 1968 a child is defined as any boy or girl under the age of 16 years. Under this Act, it is an offence to ill treat, neglect or abandon a child. The Crimes Act 1969 protects children under the age of 18 from labour and sexual exploitation including incest, sexual interference, assault and indecencies. [Please refer to discussion under article 31.]

305. The Education Act 1986/87 provides that a principal or a teacher to whom a principal delegates such authority, may, when all other courses of action has been exhausted, administer reasonable corporal punishment to a secondary school child and a primary school child as may from time be prescribed by regulations. Corporal punishment may only be so administered for such offences as should have been previously agreed to by the school principal and school committee of that school.

306. Although the Education Act 1986/87 provides for corporal punishment, guidelines and policies have been developed by the Ministry of Education and are to be strictly adhered to before imposing corporal punishment.

307. The Cook Islands Protection of Children Ordinance 1954 imposes penalties of imprisonment for one year or to a fine of \$200 on any person who having the custody of a child being a boy under the age of 14 or a girl under the age of 16 causes or procures such child to be ill-treated or neglected in a manner likely to cause such child unnecessary suffering or injury to its health.

308. The Crimes Act 1969 imposes a penalty of imprisonment of up to five years for the offences mentioned above without distinction between boys and girls' ages.

309. The Victims of Offences Act 1999, makes provision for the treatment of victim's of criminal offences. A 'victim' under the act means a person who, through or by means of a criminal offence (whether or not any person is convicted of that offence), suffers physical or emotional harm, or loss of or damage to property; and, where an offence results in death, the term includes the members of the immediate family of the deceased. Under s.10, the victim's views on bail in certain cases – a charge of rape or other sexual offence, or other serious assault or injury, the Prosecutor should convey to the Judge or Justice, any fears held by the victim about the release on bail of the alleged offender. Under s.11, the victim of an offence of rape or other sexual offence, or other serious assault or injury should be given the opportunity to be notified of the release or escape of the offender. The victim may make a request under this section for notification. Where the victim is intellectually handicapped; or suffers from any mental illness; or a child – the victim's, parents, guardians, or caregivers, should be given the opportunity to request the notification.

Implementation

310. Cook Islands values condemn the neglect and abuse of children and there would appear to be a need for additional measures relating to the administration of relevant Acts and other measures to address aspects of neglect and abuse.

311. The legislation on corporal punishment (outlined above) is quite clear, no school principal or teacher may administer corporal punishment to any child for any reason unless there is an agreement with the school committee defining the occasions when such punishment can be administered. Such an agreement should be recorded in writing, signed by the principal and the school committee chairperson, and communicated to the parents, teachers and pupils.

312. In the Education Gazette issued in August 2000, school principals and teachers were warned by the Secretary for Education to exercise extreme caution in regard to corporal punishment as to date there are no prescribed regulations to qualify section 56(1) of the Act. Principals and teachers therefore risk the possibility of assault charges being laid against them in certain situations. Responsible corporal punishment is likely to include the authorized and controlled use of a leather strap or wooden cane after a period of consultation involving the pupil, teacher, principal and parent.

313. There must be evidence that any corporal punishment is the last resort action. This means that there should be documented evidence of all previous misdemeanours by the student, the actions taken and the agreements reached between all Parties concerned. Actions by teachers such as slapping, punching, kicking, pinching, pulling ears, throwing objects and striking with a ruler, stick, book or object other than a strap or cane is not considered reasonable corporal punishment. Instead, these actions may be considered as criminal assault. Principals have been requested to eliminate such actions from their schools and to promote a safe and caring environment in which pupils are neither threatened nor subjected to rash outbursts of physical violence.

314. The new Counselling and Discipline of Teachers Policy was authorized as an official policy of the Ministry of Education (MOE) by the Secretary for Education in 2000. All Government school principals have been instructed to comply with the procedures

stated in the new policy; fully inform their staff about the new policy; provide an opportunity for staff to discuss the new policy; discuss the policy with the school committee and report to the Secretary for Education any constructive criticisms and recommendations to improve the policy.

315. The Secretary has requested all private schools to provide the MOE with their school's policies and procedures for teacher counselling and discipline.

316. The Policy Guidelines provide that it is not intended to specify every instance where disciplinary and/or counselling action is needed. The guiding principle is one of professional judgement by the Principal, whose duty it is to regard the learning, physical and emotional well being of his students to be of paramount importance. Where the Principal has evidence, which would support a view that his students learning or physical and emotional well being is in jeopardy, then appropriate disciplinary action is called for.

317. Any allegation of physical abuse of a child by a teacher must be immediately investigated by the Principal including interviews with witnesses and the teacher and student concerned and a detailed report of the incident prepared as according to the guidelines.

318. A copy of the report is to be given to and discussed with the teacher, student, parents/guardians and the Chairperson of the School Committee.

319. If the Principal's report concludes that no physical abuse actually took place and the teacher, student, parents/guardians and Chairperson of the School Committee all agree with this finding, then each party is to record and sign their agreement on the report and to receive a copy of the signed report. No further disciplinary action is required.

320. If the Principal's report concludes that the nature of the physical contact was of such a minor nature that only internal disciplinary action and counselling is warranted and the teacher, student, parents/guardians and the Chairperson of the School Committee all agree with this finding, then each Party to also record and sign their agreement on the report and to receive a copy of the signed report. The internal disciplinary action and counselling to be taken is to include:

- The teacher apologizes in writing to the parents/guardians including a commitment not to re-offend and send copies of the letter to the Principal and Chairperson of the School Committee
- The Principal advising the teacher of the expected standards and procedures for discipline in the school and the monitoring and counselling programme to be implemented
- The Principal or a senior teacher monitoring the teacher's behaviour through making spot visits to the teacher's classroom at least once a week for the first month then at least once a month for the next 5 months
- The Principal providing relevant professional counselling and support for the teacher concerned through a relevant professional development programme and appraisal system

321. On the second occasion that a teacher commits a minor physical abuse, the incident should be reported to a higher authority (Secretary for Education) for further action.

322. If the Principal's report concludes that serious physical abuse has occurred or if any one of the parents/guardians, teacher and Chairperson of the School Committee all record and sign their agreement with the report, the following procedures will be followed:

- If MOE files indicate a previous record of serious physical abuse by the teacher then the Secretary for Education will immediately dismiss the teacher and initiate procedures for de-registration as stated in the Education Act
- If the MOE files do not contain a record of a previous offence of physical abuse, then the Secretary for Education will:
 - Immediately suspend the teacher without pay for a minimum of two weeks
 - Ascertain the teacher's ability to refrain from physical abuse by conducting personal interviews and arranging counselling sessions for the teacher with a person experienced in anger management and physical abuse cases
 - Meet with the Principal and Chairperson of the School Committee to determine as to whether or not the teacher will be permitted to resume employment at the school and consequently
 - Lift the suspension and allow the teacher to resume teaching at the same school, if it is the unanimous decision of the Principal, Chairperson of the School Committee and the Secretary of Education, or the decision of the Secretary of Education if consensus cannot be reached
 - Initiate procedures for de-registration as stated in the Education Act, if this is the decision of the Secretary of Education

323. If one or more Parties disagree(s) with the Principal's report, the Secretary of Education will conduct an investigation that may include requesting an official police investigation. The procedures to follow the Secretary's report will be the same as would follow a Principal's report.

324. All Principals are required to comply with the requirements of this policy and failure to comply will result in disciplinary action by the Secretary of Education.

325. Physical punishment is widely practiced and culturally acceptable within most Cook Islands families as a means of disciplining children. Anecdotal evidence has shown that this form of punishment is on the decline as education and awareness raising of positive guidance techniques as an alternative to physical punishment is currently being undertaken through workshops by Punanga Tauturu Inc. A Parenting Workshop was held over a period of one week and covered the following areas:

- Roles and responsibilities of fathers, mothers and children
- Making the home environment conducive for learning and peaceful for work and play
- New methods of teaching the children morals and values
- Effective ways of disciplining the children
- New ways of conflict resolution at home
- Development stages of children

326. There are no institutional care facilities for children in the Cook Islands. Most children at risk or those who have been abused are usually taken into care by relatives or immediate family members under the supervision of the Courts.

327. The Courts in the Cook Islands are available to protect abused and neglected children and have the power to either permit neglectful or abusive parents to retain custody of their children, on condition that they improve their parenting skills, or remove children altogether into alternative care arrangements.

328. Serious attention should be given to the penalties imposed on sexual offenders. In practice, the term of imprisonment for those who commit sexual intercourse or indecency with a girl under the age of 12 or between 12 and 16 has been very light and does not correspond with the severity of the crime: – for example, a nine months jail sentence for a sex offence on the charge of having sexual intercourse with a girl over 12 but under the age of 16; three months community work on the outer island of Aitutaki for two brothers on a similar sex offence; and eighteen months jail for attempting to have sexual intercourse with an underage girl of six years old.

329. Established in 1994, the Cook Islands Women’s Counselling Centre/Punanga Tauturu Inc. (PTI) provides counselling to victims of family violence and sexual abuse. The Centre also provides legal literacy and human rights education at the community level and has been instrumental in disseminating information on the Convention through workshops, talk-back radio programmes, newspapers and television. Towards that end, posters and school book stickers based on various articles of the Convention were completed in 1999 along with a pamphlet on the Convention translated into the Cook Islands Maori language. Several workshops and seminars on legal literacy including women and children’s rights are held annually by PTI.

330. Statistics over the last three years provided by PTI over the past three years in relation to child abuse are provided in table 1.10.

Table 1.10
Statistics on child abuse

	1996/97	1997/98	1998/99
Child abuse	2	15	9
Assault on child	19	4	8
Incest		1	4
Indecent act on girl under 14	1	-	2
Sexual intercourse 12–16 years		2	

Source: PTI and Ministry of Justice.

331. School book stickers and labels on the theme “Keeping Ourselves Safe” have been produced by PTI for school children to place on their schoolbooks. It provides simple explanations on how children can keep themselves safe from strangers and unwanted touching.

332. PTI has also organized a number of workshops on child abuse and sexual offences for the Police and Ministry of Justice and NGO’s. This has entailed the recruitment of a trained Police Counselor from the New Zealand Police to run the workshops. This activity was made possible with the assistance of the New Zealand Government.

Future implementation considerations

333. It is acknowledged that the introduction of rehabilitation programmes and the improvement of counselling services for sexual offenders will ensure that victims of abuse receive appropriate care.

334. The Cook Islands Protection of Children Ordinance 1954 discriminates between a boy child (14 years) and girl child (16 years) regarding the age at which legal action for neglect can be launched. The Crimes Act 1969 contains provisions very similar to section 2 of the Ordinance and it is acknowledged that that provision in the Ordinance needs to be repealed, as the Crimes Act does not make any distinction in age.

335. A review of penalties imposed on sexual offenders needs to be undertaken to reflect the seriousness of the crime. PTI is working to make amendments to the Crimes Act 1969 with regard to sexual offences, this will include broadening the definition for rape to take into account rape with an object.

Article 20

Protection of a child without family

Legal context

336. The Births and Deaths Registration Act 1973 provides that where any living new born child is found exposed or abandoned, any person in whose charge the child may be placed shall give to the Registrar within seven days, information for the child to be registered.

337. The Crimes Act 1969 provides that everyone is liable to imprisonment for a term not exceeding seven years who unlawfully abandons or exposes any child under the age of six years.

338. Refer also to articles 19 and 21 of this report for further information.

Implementation

339. The social structure of the family and the role of the extended family network are valued in Cook Islands communities. Generally, the extended family provides a social network for the welfare of its members and plays a key role in keeping together its members.

340. This social structure has resulted in a practice whereby children are 'fed' by close family or relatives. *Tamariki angai* or when literally translated a "feeding child" is a child brought up by someone who is not the biological parent, although in almost all cases is related to the child. Such children are not legally adopted. Some feeding children usually maintain some contact with their biological parents and siblings or are made aware that they have been 'fed'. In some cases, the child will be returned or given the choice to return to his biological parents when he is older. Although a feeding child in the Cook Islands does not have the same legal rights with regards to land as a child who has been adopted legally through the courts, there are exceptions. For example, although a feeding child cannot succeed to any land to the feeding parents, sometimes the parents will ask their family for permission to allow the child to succeed, in which case, the Ministry of Justice will advise the parents to adopt the feeding child. If that child is over 21 years old and wants to succeed to a piece of land he will have to seek the consent of the family.

341. Over recent years indications show extended families are under increasing pressure especially on Rarotonga. With the reduction of Government spending and restrictions on the size of the public service, the alternate may be to strengthen community based non-government to provide such services. Currently, there are some religious organizations that assist in these areas.

342. There are no institutional homes in the Cook Islands for the care of unwanted children or children deprived of their family environment. In such cases, the child will usually be 'fed' by other family members or even adopted out to foreigners, depending on the choice of the parents.

Article 21 Adoption

Legal context

343. The competent authority for approving and regulating legal adoptions in the Cook Islands is the High Court of the Cook Islands. The system of legal adoption is set out in the Cook Islands Act 1915. This Act ensures that the rights and safety of a child who is placed for adoption are safeguarded and that he or she is placed with suitably qualified adoptive parents. Only a person under the age of 21 years may be adopted. The Act provides that:

- “No person other than a Native or the descendant of a Native (whether legitimate or illegitimate) shall be capable of being adopted by a Native” (s. 460)
- A “native” is defined as “a person belonging to any of the Polynesian races (including the Maori race), and includes a half-caste and a person intermediate in blood between a half-caste and a person of pure descent from any such race”
- If unmarried, the adopting parent (must be) at least 30 years older than the child
- If the child is above the age of 12 years, that child must provide consent to the adoption and the adopting parents must be “fit and proper persons to have the care and custody of the child and of sufficient ability to maintain the child, and that the adoption will not be contrary to the welfare and interests of the child”

344. No order of adoption shall be made without the consent of the parents or of the surviving parent (if any) of the child, save that no such consent shall be required in the case of any parent as to whom the Court is satisfied that he has deserted the child or that he is for any reason unfit to have the custody and care of the child.

345. The following persons may apply to the Court for an adoption order:

- A European husband and his native wife jointly
- A native husband and his European wife jointly
- A European husband and his European wife jointly
- A European alone (s. 573B)

346. A European is a non-Cook Islander, a foreigner.

347. Part III of the Births and Deaths Registration Act 1973 provides that when registration of an adoption is made, the full name of the child as before the adoption and the full name conferred on the child by the adoption order shall be made known to the Court as well as the name of the parents of the child before the adoption and the name of the adoptive parents. In the case of a request to be supplied with a copy of the original record, the matter is to be submitted to a Judge of the High Court.

348. In acceding to the Convention, the Cook Islands made a declaration to this article: “The Government of the Cook Islands declares that it will take the opportunity afforded by its accession to the Convention to initiate reforms in its domestic legislation relating to the adoption that are in keeping with the spirit of the Convention and that it considers appropriate, in line with article 3, paragraph 2 of the Convention to ensure the well-being of the child. While adoptions now permitted under Cook Islands law are based on the principle of the best interests of the child being of paramount consideration and authorized by the High Court in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, the principal aim of the planned measures will be to remove vestigial discriminatory provisions governing adoptions found in legislation enacted with respect to the Cook Islands prior to the acquisition of sovereignty by the Cook

Islands in order to ensure non-discriminatory adoption arrangements for all Cook Islands nationals”.

Implementation

349. In adopting a Cook Islands child, the prospective parents require the assistance of a lawyer and a welfare report from the Probation Services. The Judge conducts the hearing in the presence of the couple or by phone as the case may require.

350. The parents of the child have the right to decide who will adopt her child. In the case of a single mother, she will make the final decision.

351. In light of Part XV of the Cook Islands Act 1915, a native couple cannot adopt a European child in the Cook Islands because of their racial origin. This arrangement appears to have been due, at least primarily, to concerns with respect to land succession and inheritance rights that are reserved to natives only. In the Convention itself, the child's rights to own property are not protected. This has been interpreted to mean that if discrimination exists in relation to inheritance of land matters, this falls outside of the Convention's regime of equal protection and non-discrimination. Although the law would appear to be in conflict with obligations under the Convention, actual practise is in accord with the provisions of the Convention and no serious problems seem likely to arise in this regard.

352. Adoption of Cook Islands children by Cook Islands Maori parents must be registered in the Land Court. Legal adoptions of children by Cook Islanders residing in New Zealand or other countries carry no weight in the Land Court and as such the adopted children have no rights to succession to land in the Cook Islands. Succession to land may be restricted if there is no blood connection or may be granted if there is no objection by the other landowners.

353. Land in the Cook Islands is communally owned through tribal groups. Any person requiring land for residential or business purposes must seek either an occupation right or lease (for 60 years only) from the majority of all the landowners.

Future implementation considerations

354. The discriminatory provisions with respect to adoption may be resolved two ways: (1) either an amendment to section 573B of the Cook Islands Act 1915, allowing Natives to adopt European children in the Civil Court. However, these adoptions should exclude the automatic transfer of land to the child. (2) Alternatively, an amendment can be made to the provisions of sections 460 (who may be adopted) and 465 (effect of adoption - succession to the estate of any Native) of the Act.

355. The situation of a European man or woman solely adopting a boy or girl needs to be addressed. It is of concern that some adoptions may be illegal. Adoption legislation is being re-examined in order to close the loopholes that facilitate these adoptions. Of particular concern is evidence that some children are being sent overseas outside of existing inter-country protocols. There is no restriction under the Cook Islands Act 1915 that prevents foreign residents from adopting Cook Islands children if consent has been given by the parents.

356. It is recognized that laws need to be reviewed to better protect children and to ensure that at all times the 'best interests of the child' is taken into consideration. There is no monitoring of children who are adopted and are taken overseas.

Article 22

Refugee children

Legal context

357. The effect of s. 10(e) of the Entry, Residence and Departure Act 1971/72 would be to allow a child who is seeking refugee status to enter the Cook Islands on humanitarian grounds. The Cook Islands is not a Party to the Convention relating to the Status of Refugees.

Implementation

358. Currently, this is not a problem in the Cook Islands. In the unlikely event that a child refugee should seek refugee status in the Cook Islands, that child, if found to be a genuine refugee, would no doubt be afforded protection and humanitarian assistance conforming to the rights set out in the Convention.

Article 25

Periodic review of placement

Legal context

359. The Prevention of Juvenile Crime Act 1968 provides that where a child has been placed under the supervision of a community youth officer, the child or parent or guardian of the child may apply to the Children's Court to have that supervision order reviewed. Provided that twelve months have elapsed since the order was made, the Court may cancel the order and impose such conditions as it thinks fit.

Implementation

360. There are no residential institutions in the Cook Islands dedicated to the placement of children for the purposes of care and protection, except for those provided by the Ministry of Health in the form of hospital treatment for physical or mental health problems.

361. There is no legal mechanism to review a child's situation unless he was actually placed in care by the Court and therefore is under the supervision of the Court.

VIII. Basic health and welfare

Article 24

Health and health services

Legal context

362. The Ministry of Health Act 1995/96 outlines the principal functions of the Ministry of Health which are to: foster the preservation of health and life; reinforce the responsibility of the individual in the preservation of their own health and well-being assist the people in protecting themselves from infectious agents, injurious substances and practices; and ensure that each individual has access to appropriate preventative, therapeutic and rehabilitative services and care.

Implementation

Ministry of Health

363. The Ministry of Health is responsible for the provision and delivery of health services in the Cook Islands. As provided by Government Budget Estimates for 1999/2000 the key sectoral goals for the Ministry of Health were to:

- Avoid preventable deaths among child bearing mothers, infants and children
- Monitor non-communicable diseases and disabilities
- To reduce the incidence of and deaths from cancers of the cervix and breast among women and cancers of the lungs and prostate in men
- To ensure the highest standard of oral health for Cook Islands children
- To promote the reduction of accidental injuries and deaths
- To reduce the incidence of infectious disease and re-emergence of measles, dengue, food poisoning and filariasis, influenza, hepatitis, tuberculosis and skin diseases
- To reduce the incidence of STDs and minimize the risk of HIV/AIDS
- To ensure that curative services are provided efficiently

Organizational network

364. The Minister, under whom the Secretary administers four divisions, namely, central administration, clinical services, public health services and nursing services heads the Ministry of Health.

365. Of note for the purposes of this report is the Public Health Section, which is divided into Health Education, Nutrition, Public Health Nursing, Health Inspectorate, Dental Nursing and the Ante-natal Clinic.

366. The economic and public sector reforms in 1996 had a considerable impact on the management of health sector. The reforms ushered in devolution of control for all health services to the Outer Islands. Previously, the Ministry of Health managed the delivery of health services for all the islands. A devolution framework was formulated in the latter part of 1999 to assist with this process. Since April 2000, the Office for the Minister of Islands Administration (OMIA) has transferred services to the island by way of a Memorandum of Understanding between the Minister and the Island Mayor of each island. In the case of health, the Ministry of Health has resumed responsibility for health personnel in the clinical services areas as well as the supply of pharmaceutical supplies to each island (except for Rakahanga and Palmerston). Health responsibilities that have remained a responsibility of the Island governments are environmental and dental services.

367. The introduction of user charges for health services commenced in 1997. These included prescriptions and consultation fees (\$7 each), new mothers having children (\$20 for their entire stay in hospital) and for overnight hospital stays (\$3 per night). Services for children are provided free of charge. Private clinics charge between \$15–\$20 per consultation cover out going costs such as electricity and equipment.⁷

368. Appropriations for the Health sector are shown in the following table.

⁷ Cook Islands Health Sector Review 2000, 15.

Table 1.11
Health budget

<i>1997/98</i>	<i>1998/99</i>	<i>1999/2000</i>	<i>2000/01</i>	<i>2001/02</i>
3 400 000	3 291 493	3 722 499	5 402 967	6 481 359

Ministry of Health.

369. Reductions in the health budget for 1997–1999 were a result of smaller government revenues and the implementation of a user pay system at the hospital. Actual expenditure on children's health is difficult to determine because the present system does not record what is spent on each child separately. Foreign aid from bilateral and multilateral donors plays an important role in the Health sector.

370. Health-care facilities in the Cook Islands consist of a 90-bed central hospital supported by one outpatient clinic on Rarotonga and 33 maternity health clinics in the different villages on the island.

371. An Asian Development Bank report in 1995 noted that the Cook Islands had a relatively high proportion of health professionals per head of population when compared with other Pacific Island countries. Although it appears these health professionals were not evenly distributed throughout the country, Rarotonga and the Southern Group still have relatively high proportions of health professionals per head of population. This indicates that health service coverage is high although in some cases, medical care may be only for basic ailments.

372. Scholarships are available for the training of doctors and nurses and health staff.

Public health and primary health-care services

373. The health protection services in the Cook Islands comprise environmental services, disease vector control, food inspection, disaster planning, maternal and child health monitoring, immunization, family planning, nutrition programmes and community health promotion. In the Outer Islands health inspectors, public health nurses, doctors and nurse practitioners variously carry out this work.

374. Public health nursing in the Cook Islands plays a significant role in the maintenance of the health status of the population.

Maternal health

375. Antenatal and postnatal mothers are seen at periodic intervals and counselling is carried out by the public health nurses for any concerns for the mothers or child's well being. Regular child growth and development monitoring is conducted in village maternal and health clinics both on Rarotonga and in the Outer Islands.

376. Prenatal checks include taking a full medical history and physical examination. Iron supplements are given and a tetanus toxoid immunisation is given. Breastfeeding support is a major programme and family planning is encouraged as soon as possible. The maternity ward at Rarotonga Hospital encourages all new mothers to breast-feed their new born children, bottle-feeding is discouraged. Antenatal education classes for mothers covering nutrition, immunisation and breast-feeding was discontinued because of lack of educators.

377. Pamphlets on nutrition in pregnancy, breast-feeding and an infant feeding guide have been printed and disseminated in both the English and Cook Islands Maori language. Workshops on breast-feeding have been undertaken by antenatal staff. Studies on infant

feeding practices and infant growth monitoring on the island of Rarotonga were completed in 1998.

378. Family planning services is provided when required. Contraceptives are available from the Antenatal clinics and include injection, IUD's, oral contraception as well as condoms at a minimal fee. The Ministry of Health's policy on the dispensation of contraceptives provides that the attending health service provider solicit the involvement of the parent or guardian in the assessment, treatment and continuing care of and to aid the child under the age of 156 years in coping with illness and with regard to contraceptive advice and medication.

379. The Ministry of Health will continue to provide quality midwifery services with a target of no more than one maternal death every 2–3 years.

380. Specific programmes to reduce teenage pregnancies from 10–9 per cent by mid-2000 have been designed. The immunisation of girls of 10 years and 15 years against rubella has started.

381. The Child Welfare Association (CWA) has played a significant role in producing the high standard of maternal and child health currently enjoyed by Cook Islanders. The Association is mainly self-funded but does receive some funding from Government and overseas agencies. The CWA was formed in the 1930's to ensure that mothers were fully aware of how to care for young babies, both before and after birth as well as to ensure good health for pre-school children. The Association works closely with the Ministry of Health staff and members have coordinated the construction and equipping of mother and child health clinics throughout the Cook Islands. Its work also includes nutrition education, promotion and training in home gardening, training workshops on community promotion of child health and organization of annual baby shows. They also follow up on mothers not attending child clinics. The annual baby show is a competition organized by CWA and the Public Health Division whereby parents are awarded special prizes for ensuring their children are in good overall health – good teeth, regular attendance at the mother and child health clinics.

Child health

382. Public health nurses will visit all mothers with new born babies for the first two–three weeks at home. Thereafter, the mother is advised to bring the baby to the mother and health clinics on a fortnightly basis. The child is checked for abnormalities and the immunisation schedule is begun. Development is monitored and parenting advice on nutrition, hygiene and behaviour is given. Workshops on family food production and nutrition in the Outer Islands are also regularly conducted.

383. Coverage rates for immunization are 95–100 per cent for the six childhood diseases: diphtheria, pertussis, tetanus, tuberculosis, polio, measles and hepatitis B. Pamphlets on immunisation have been printed in the English and Cook Islands Maori language and disseminated throughout the Cook Islands. The immunisation schedule is 3, 6 and 9 months and then at pre-school or new-entrants age which is about 5–6 years old.

384. The Public Health Division proposed an immunisation target of 95–100 per cent of children immunized for the six childhood diseases (listed above) as well as infant deaths reduced by 1.5 deaths/100 by June 2000.

School health

385. Primary school children are seen in schools on a fortnightly basis. Each school has a nurse assigned by the Public Health Division whose responsibilities include undertaking medical checks for all new school entrants. This includes testing and monitoring of the

vision and nutritional status of the child, as well as measuring weight and height. Minor sores, skin diseases and head lice are also treated. Immunisation and de-worming is also carried out according to regular schedules. A qualified audio and vision nurse carries out eye and hearing screenings in all schools – primary and secondary, both private and public. Ear, nose and throat specialists travel from New Zealand to undertake the necessary tests in this area.

386. The promotion of healthy school lunches as an entry point for raising healthy living awareness among school children and through children to influence their parents is undertaken in most schools. Some schools assign one day a month whereby children are encouraged to bring local food products or home made food to school. However, the success of such activities is questionable as several school canteens continue to sell sugar laden, high fat products.

Combating disease and malnutrition

387. The Cook Islands is heavily dependent on imported food, however, the country does not suffer from food insecurity due to its high per capita income and access to New Zealand. In addition, almost all Cook Islanders have access to some land, the lagoons and ocean where they have always grown food crops and caught fish for subsistence. Due to the abundance of fish and good soil, there have never been any major difficulties with the availability of food in the country. However, natural calamities such as drought and cyclones and unsustainable fishing practices occasionally disrupt food production. If food security is viewed in terms of access to nutritionally adequate and safe food for all at all times then the problem facing the Cook Islands is excessive consumption of high energy food and alcohol.⁸ A large proportion of the population plant food crops for subsistence purposes rather than as a source of income. Only one per cent of the farming households derive all their income from agriculture.

School dental health

388. A dental programme operates in all schools on Rarotonga and on the islands which have a dentist or dental nurse. For those islands that do not have resident dentists, dentists based on Rarotonga will travel to each island throughout the year. The dental nurses are all well trained to the level of a dental therapist which means they can undertake fillings, extractions, check gum and teeth hygiene and perform some restorative work.⁹

389. The dental nurses undertake school based hygiene education and establish teeth cleaning and fluoride treatment regimes in the primary schools with toothpaste and toothbrushes donated by various individuals (usually visitors to the islands) and overseas organizations. Television and radio dental health education programmes are undertaken when funding is available.¹⁰

390. A DMF (diseased, missing or filled) survey at age 12 years using WHO guidelines was carried out in May 2000 on the island of Rarotonga. The DMF results indicated that the rate was below 2, which is within the WHO standard of 3 DMF for 12 year olds. The outcome for 5 years was not so good and shows a need for early childhood teeth cleaning programmes. There is no equivalent information on the dental health of the children in the Outer Islands.

⁸ Food and Agriculture Organization Report (FAO), 1996.

⁹ Cook Islands Health Sector Review 2000, 21.

¹⁰ Ibid.

391. It is proposed that a dental examination of all children at least once a year with fluoride supplementation will be continued.

Mental health

392. Mental health services have been formally provided since 1998. Efforts by private individuals to provide such services resulted in the establishment on the island of Rarotonga — Are Pa Taunga — a small institution partially funded by overseas sources and the Ministry of Health. Staffed by trained psychiatric nurses, Are Pa Taunga provides counselling, monitoring and support services to families and individuals.

HIV/AIDS

393. The Cook Islands has no known cases of HIV/AIDS. Over the past few years there has been substantial promotional and awareness raising material produced through different mediums – television, radio talk back, posters and pamphlets to highlight the dangers of HIV/AIDS. Health workers have worked continuously in schools to promote the “safe sex” or “no sex” message.

Emergency services

394. Emergency services are provided by the Ministry of Health and include the following: 24-hour accident and emergency service on Rarotonga; doctors are rostered to ensure their availability 24 hours a day; emergency patients are evacuated to the national hospital on Rarotonga if residing in the Outer Islands and if necessary to New Zealand, if the condition is critical.

Safe water and sanitation

395. Mean annual rainfall in the Cook Islands is 1,900 mm. Rainfall is variable and drought periods are often experienced in the Outer Islands. There are no water reservoirs on any of the Outer Islands, however, there are community water tanks on some islands and Government is in the process of building water reservoirs there. Water is not metered and currently there is no charge for water. The main source of water for the Cook Islands is from streams, roof catchment systems, bore holes and community water tanks. Water on Rarotonga is captured in the high mountain streams and is gravity fed into the main distribution network. The water used for consumption is not treated with added chemicals such as chlorine or fluoride.

396. There is no legislation for water supply. The Department of Water Works is responsible for the delivery of water supply.

397. The Ministry of Health does not have a mandate to test water quality. This is undertaken as part of the general services of the Ministry to protect public health. The Ministry periodically carries out water monitoring for microbiological content (coliform analysis). According to Ministry of Health water test reports, there is an extremely high level of coliform in water and therefore could be considered unsafe to drink without some form of disinfection. Although the Government recognizes the close link between good water supply and good health, lack of funds has prevented any real action to improve safe drinking water delivery.

398. The 1996 Census indicates that a larger proportion of households now have water tanks installed indicating that the droughts of earlier years and poor water supply has made an impact. There is also anecdotal evidence that show that households are filtering their own water or boiling it before use.

Water safety

399. In 1999 and 2000, the Cook Islands Red Cross ran a Water Safety programme in collaboration with an environmental NGO – Rarotonga Environment Awareness Programme (REAP). The programme was in response to an increased number of near drowning or drowning incidences of children. The implementation of the programme consisted of teaching children in three primary schools the basics of swimming and water safety. The Cook Islands Red Cross envisages reviving this programme in the latter half of 2002.

Parental consent

400. Where parents who for religious reasons will not allow their child to receive a blood transfusion or any other urgent medical treatment, the Ministry of Health will seek a court order from the High Court allowing for such medical treatment to be administered.

Health status of Cook Islands children

401. The health of Cook Islands children compares favourably with other children in the region. However, indicators show that in the previous two years, the health of children has declined. There is a need to continue to improve maternal childcare services. Health indicators for the years 1996, 1997 and 1998 are provided in table 1.12.

Table 1.12

Health indicators

	1996	1997	1998
Percentage of population less than 15 years	35%	35%	35%
Crude birth rate per 1,000 population	26.7	21.6	20.4
Crude death rate per 1,000 population	5	7	6
Rate of natural increase in population	2.17	1.46	1.44
Life expectancy at birth (years)	56	57	66
Infant mortality rate per 1,000 live births	23.5	34	18
Maternal mortality rate per 1,000 live births	0	0	0
Child mortality rate under 5 years old (1,000)	0.79	0.82	0.46
Percentage of population with access to local health services	100	100	100

402. Over half (53 per cent) of the infant admissions to the Rarotonga hospital were for respiratory infections. Infants and pre-school children have their health and growth monitored by public health nurses at home and in the village clinics where records are kept and immunisations recorded. The members of the Child Welfare Association follow up with any mothers and infants who miss out on the monitoring programme. Main causes of death to children by cause and age group during 1996 is provided in table 1.13.

Table 1.13
Infant and child mortality

<i>Cause of death</i>	<i>Under 1</i>	<i>1–4 years</i>	<i>5–14 years</i>
Septicaemia	1		
Other malignant neoplasms	1		
Other diseases of respiratory system		1	
Pneumonia	4	1	1
Appendicitis			1
Congenital anomalies	1		
Certain conditions originating in the perinatal period	4		
Injuries and poisoning		2	
Intracranial and internal injuries		1	
Accidents		2	

403. The main diseases reported and treated on in the Cook Islands is listed in table 1.14 extracted from the Ministry of Health, Medical Records Unit, Annual Bulletin 1996.¹¹

Table 1.14
Major diseases in Cook Islands children in 1996

<i>Disease</i>	<i>Under 1</i>	<i>1–4 years</i>	<i>5–14 years</i>
Infectious and parasitic disease	7	5	16
Neoplasms	2	0	1
Endocrine, nutritional and metabolic diseases	0	0	1
Diseases of blood and blood forming organs	2	0	3
Diseases of nervous system and sense organs	2	4	5
Diseases of circulatory system	0	0	4
Diseases of respiratory system	22	34	13
Diseases of the digestive system	4	6	8
Diseases of the genitourinary system	0	3	2
Diseases of skin and subcutaneous tissue	0	5	3
Diseases of the musculoskeletal system and connective tissue	0	2	4
Congenital anomalies	6	3	4
Symptoms, signs and ill defined conditions	3	16	24
Injuries and poisoning	3	16	24

404. Annual health reports over the past three years highlight a growing incidence of lifestyle diseases such as obesity, diabetes, hypertension and alcohol-related.

¹¹ Updated 1995 and 1996 data is available but can only be provided in national aggregate form and not in the detailed format required for this profile.

Non-government organizations

405. Other non-government organizations that have had major inputs into the provision of health services include:

- **Cook Islands Red Cross Society** who provide educational and training programmes in Safety and First Aid; Disaster preparedness and relief work; blood donor recruitment and international humanitarian law. Training in these areas has been provided to all sectors to the community including schools.
- The **Pan Pacific South East Asia Women's Association** (PPSEAWA) has undertaken a number of activities for children. This includes two youth workshops entitled "Healthy Living" and "Development of the person" for students between the ages of 16–18 years. An objective of the workshop was to assist students to understand what is necessary to live healthy lives and how to achieve goals. Promoting "Positive Parenting" principles has been an ongoing activity of the organization and a four-tape documentary entitled "Growing in Peace" has been produced with the assistance of the Canadian Government (through Canada Fund). The video highlights the importance of positive parenting as being the essential element in the development of children. The video was screened on national television in 1998.
- The **Cook Islands Hospital Comforts Committee** and the **Rotary Club of Rarotonga** all support the hospitals with its fundraising efforts by providing essential supplies and financial assistance. Another, the **Seventh Day Adventist Church Dorcas Group** also provides sheets, blankets and produce to hospitals.
- **Punanga Tauturu Inc.** organized a Theatre Workshop for Youth with the financial assistance of the Pacific Islands Forum Secretariat in 1999. The purpose of the workshop was to encourage the use of different forms of media and in this case, puppets and puppetry to disseminate information to the public on teenage/adolescent sexual health issues.

Future implementation considerations

406. The Ministry of Health continues delivery of the following services to ensure quality health of children: school programmes; child health programmes; and education and awareness to be continued by the Department of Public Health.

407. It is further proposed that the user pay charges be reviewed to ensure that children will always receive free medical treatment at all times.

Article 26 Social security

Legal context

408. The Social Welfare Act 1989 provides that every child under the age of 10 years has the right to receive social welfare in the Cook Islands and a child benefit is paid to each child the age of ten years who are resident in the Cook Islands. The term "child" includes a step-child, an adopted child and any child who, though not a member of the applicant's family, is maintained as a member of that family. The benefit is to be expended for maintenance and education of children.

Implementation

409. The Child Benefit is NZ\$40 per month per child up to the age of ten years. A one-off payment of \$150.00 is given to mothers of new-born babies (after registration of the child) for the purchase of major items for the baby.

410. In 1996, there were 2, 478 children receiving the above child welfare benefit. Table 1.15 indicates the number of children receiving the child welfare benefit.

411. There is no unemployment benefit in the Cook Islands.

412. The economic reforms in 1996 have placed extra stress on families and their incomes and therefore welfare services. It resulted in a large loss of public service wages for many families. This has also meant a reduction in the child benefit payments that has led to a change in the patterns of expenditure in families.

Table 1.15

Child benefit by month: 1997–2001

	1997	1998	1999	2000	2001
January	4 647	4 209	3 909	3 672	3 516
February	4 670	4 187	3 882	3 639	3 474
March	4 588	4 138	3 893	3 645	3 497
April	4 458	4 129	3 869	3 669	3 441
May	4 399	4 097	3 872	3 540	3 496
June	4 406	4 048	3 844	3 629	3 469
July	4 387	4 045	3 858	3 598	3 489
August	4 366	4 039	3 828	3 625	3 476
September	4 347	4 030	3 787	3 563	3 463
October	4 354	4 003	3 781	3 540	
November	4 330	3 975	3 765	3 543	
December	4 282	3 990	3 719	3 479	

Source: Ministry of Internal Affairs, 2002.

413. Although a child benefit is supposed to pay for basic items and necessities for the child there is anecdotal evidence that some families use the benefits for gambling through 'bingo' games or for other non-essential items. The Chief Examiner of Benefits can cease payment of benefits if he has evidence to prove that the benefit is being spent gambling.

414. Appropriations for welfare benefits are contained in Table 1.16. It should be noted that this table is for total appropriations which includes the child benefit, infirm benefit and old age pension.

Table 1.16

Appropriations for welfare payments

1998/99	1999/2000	2000/01	2001/02
5 952 000	5 665 500	5 874 230	5 906 310

Article 27

Standard of living

Legal context

415. See commentary accompanying articles 3, 18 and 24.

416. The Cook Islands Act 1915 makes provision for maintenance of a child, whether born in or out of wedlock. Moreover, it is an offence to leave or attempt to leave the Cook Islands with intent to avoid maintenance obligations. It further provides that a maintenance order may be made in favour or against any person otherwise entitled or liable although not present or resident in the Cook Islands.

417. The Cook Islands development efforts are aimed at, inter alia, satisfying the requirements of this article.

Implementation

418. The national vision for the Cook Islands was defined in 1997 following the economic reforms as:

“Te oraanga tu rangatira, kia tau ki te anoano o te iti tangata, e kia tau ki ta tatou peu maori, e te aotini taporoporo o te basileia”

“To enjoy the highest quality of life consistent with the aspirations of our people, and in harmony with our culture and environment.”

419. Government has reaffirmed this vision and remains committed to fulfilling it.¹² However, the Government recognizes that more work needs to be done to translate the national vision into a set of goals and strategies that are achievable within the resources available, and which will provide a fair and equitable outcome for all.

420. The economic reform process has fuelled the need for a comprehensive National Development Plan for the Cook Islands to ensure future development directions are sustainable and invest in the future of the children of today.

421. Social issues and problems are on the increase among youth in the Cook Islands. Of all the groups affected by the reforms, youth are perhaps the most vulnerable. In a tightening labour market which is demanding greater skill levels, people with little or no work experience, few qualifications and limited financial and other resources (such as land) will find it difficult to benefit from the reforms without special programmes to provide them with the skills and attitudes to survive in the new economic environment.

422. The Cook Islands has the highest per capita income among the Asian Development Banks South Pacific Developing Member Countries, about NZ\$8317.00 in 1998.¹³ This level reflects the high proportion of expatriate residents and the tourist based economy of Rarotonga. It hides the subsistence lifestyle of most of the Outer Islands.

423. The 1996 Census found the employed population stands at 5,320 persons where 1,452 (27 per cent) of persons reported earning less than \$5,000 per annum; 2,532 (48 per cent) earn between \$5,000 and \$14,999; 944 (18 per cent) earn \$15,000 to \$29,000; and 329 (6 per cent) earn more than \$30,000. Of the latter group, 112 earn over \$50,000.

424. Government is not involved in housing except in the Government houses it has available to rent to public servants or expatriate teachers. Income distribution is uneven

¹² Cook Islands Government Budget Policy Statement 1999/2000.

¹³ Ministry of Finance and Economic Management Report, 1999.

with a larger proportion at the lower end of the income groups. This fact together with unemployment has increased the number of young families that have left the Cook Islands to seek employment and better opportunities in New Zealand or Australia.

IX. Education, leisure and cultural activities

Article 28 Education

Legal context

425. The Education Act 1986/87 provides that every child who attains the age of 5 years shall be enrolled at a registered school, until he attains 15 years of age. The policy of free and compulsory basic education has long been endorsed and implemented by successive government administrations. Attendance at any pre-school is voluntary.

426. The Education Act 1986/87 further provides that a School Committee is to be established for each school. It will meet usually once a month during school terms. The role of the School Committee is to provide guidance to the Principal and teachers of the school and assist the school in the provision of school materials and resources.

Implementation

Expenditure on education

427. Budget and financing of education in the main comes from Government appropriations. Government annually appropriates funds for education to the Ministry of Education and the Human Resources Development Unit to support student assistance programmes.

428. In the first half of the 1990's, the Cook Islands spending on education averaged 5.9 per cent of GDP per year. For the same period the share of the total recurrent budget allotted to education averaged 13 per cent each year. The government's policy is to increase this proportion to 15 per cent but as of 1996 it had not achieved this target. Appropriations for the past three years for the Ministry of Education are provided in table 1.17.

Table 1.17

Ministry of Education budget

	1997/98	1998/99	1999/2000	2000/01	2001/02
Budget	5 517 000	3 044 153	3 524 676	4 134 603	6 746 146
% of total budget	12.50%	10.59%	10.69%	8.01%	11.10%

429. Table 1.18 outlines expenditure in the sector from 1999/00. Expenditure levels continued to decline in the following years as a result of the economic crisis in 1995/96.

Table 1.18
Ministry of Education expenditure

<i>Year</i>	<i>Education expenditure</i>	<i>School population</i>	<i>Per capita public</i>	<i>% Government expenditure</i>	<i>% GDP</i>
1991/92	7 254 900	5 282	1 374	13	6
1992/93	7 877 500	5 446	1 446	15	6
1993/94	9 167 500	5 371	1 707	12	7
1994/95	8 540 000	5 508	1 550	13	5
1995/96	6 693 000	5 560	1 204	10.5	3.1
1996/97	4 735 500	5 235	905	11	3.2
1997/98	5 922 738	4 950	1 197	12.5	3.6
1998/99	5 822 028	4 767	1 221		
1999/2000	6 195 949	4 548	1 362		

430. Donor assistance will continue to play a key role in the provision of education services into the foreseeable future. Donors such as NZAid (New Zealand overseas donor assistance programme) and AusAID (Australian overseas donor assistance programme) have been major partners in providing education services to the Cook Islands in particular human resource development programmes. Donor contributions represent on average 68 per cent of total expenditure for the sector.

431. The importance of NZAID support for this sector is of critical importance as the Cook Islands has decided to follow closely the New Zealand qualification framework. Full cost implications together with ongoing teacher development with rigorous quality management and assessment measures signals donor resources will need to be targeted more effectively if the Cook Islands is to achieve its goal of improved education services to all.

432. The assistance of NZAID over the last few years has mainly funded the TESP Project (Teacher Support) which recruits secondary teachers and advisers from New Zealand, numbering on average about ten each year (decreasing since 1996). However, in the financial year 2001/2002 New Zealand agreed to an expansion of the project so 17 teachers/advisers have been recruited including advisers for the Primacy Teachers College (2), Primary schools (3), Distance Education (1), Secondary School advisers (3) and Secondary Teachers (8). The project also includes attachments to New Zealand, school twinning programmes and in-service training workshops. The budget for 2001/02 is NZ\$1.18 million.

433. Courses by correspondence have addressed to some extent the problems of accessibility. Some educators suggest that study by correspondence may be a low cost option to explore for some Outer Islands. There are currently 200 places to be filled free of charge for students wanting to undertake correspondence courses.

434. Of general concern is the academic performance of students in the northern group. Their norm is far below those of students in Rarotonga and the southern group. In 1995 the top northern group student in the national grade 6 examination was 26th in the overall list. The schools in the northern group have curbed curriculum and lack specialist teachers. This contributes to a high drop-out rate at forms 1-4. In 1996 only 28 per cent of the form 6 class and 10 per cent of the form 7 class on Rarotonga were from the Outer Islands, none of whom came from the North.

Ministry of Education

435. A report entitled “Education for All”¹⁴ in the Cook Islands dated 9 September 1999 is a comprehensive document which provides general and specific information about the development of the education system as provided by the various agencies at the national, regional and international levels. All information related to this article is taken from that document.

436. The Ministry of Education states it will contribute towards the National Vision and the outcome of social progress by providing greater opportunities for increasing individual and community self reliance and growth in physical, intellectual, emotional and spiritual well being.

437. The Education Act assigns responsibility for education policy in the Cook Islands to the Minister of Education. Policy advice is provided to the Minister by the Secretary of Education, the quality and quantity of which, is specified in a performance agreement and in the annual government budget. Government, church and private school Principals and School Committees are consulted in regard to policy and planning decisions.

438. The Ministry of Education provides policy advice, curriculum development, teacher development and quality audits for all schools in the Cook Islands. The Ministry also manages the government schools on Rarotonga which account for 44 per cent of the total student enrolment (1998). These schools are government funded. School fees are requested but are not compulsory.

439. Following the economic reforms and a call for devolution, the Office of the Minister of Islands Administration (OMIA) took over management of the government schools in the Outer Islands, which account for 42 per cent of the total student enrolment (1998).¹⁵ During this period, OMIA took over responsibility of employment and payment of Outer Island teachers and all operating costs and capital expenses. Management has however (apart from two schools), reverted back to the central administration – Ministry of Education.

Future implementation considerations

440. Policy planning in education is an ongoing process because policies are regularly evaluated and modified to meet the changing needs of students, teachers and the community.

441. Planned changes to education services as identified in the 1999/2000 estimates included:

- A new national curriculum framework, new syllabuses and teacher guidelines supported by relevant policy advice and resources.
- A new policy for teacher recruitment and relevant programme of pre-service training for recruited teacher trainees.
- A programme of in-service training to ensure that teachers are brought more up to date with the new curriculum, resources and teaching methodologies.
- Expanded development and implementation of quality management systems in schools resulting from a programme of school audits and management guidance, some colleges have developed Quality Management Systems as required by the New Zealand Qualifications Authority standards but other schools especially primary and

¹⁴ Report by Ken Matheson, Director of Planning and Finance, Cook Islands Ministry of Education, September 1999.

¹⁵ Ministry of Education Statistics, 1998.

high schools, lack the management systems required to ensure consistent delivery of quality education.

- To manage and review current secondary qualifications and conduct research into a range of new qualifications. The New Zealand qualifications framework will enable accredited schools to expand the range of qualifications to non-core areas such as tourism/hospitality and business studies. Non-accredited high schools can expand learning to include “life skills” and award local qualifications.
- Audit of teacher and student performance to ensure the delivery of effective student learning programmes. Schools require reliable information on teacher and student performance to identify weaknesses, target resources and develop strategies to improve the delivery of student learning programmes.

Outer Island schools

442. Efforts to improve education in the Outer Islands include training workshops for the teachers from the Outer Islands. An “Education Development Project” was funded both locally and by a soft loan from the Asian Development Bank in 1995 to furnish the schools with appropriate resources including furniture and building renovations. The project invested US\$ 983,000 in pre-school, primary and secondary schools and was completed in 2000. The project represented an investment of about US\$200.00 per student.

443. With the economic reforms in 1996 and the reduction in the public sector, the employment opportunities for school leavers (especially in the Outer Islands) have been substantially reduced. Opportunities for alternative employment are constrained by the lack of trade and career-oriented training programmes for young people. To overcome this constraint, the Hospitality and Tourism Training Centre travels to the Outer Islands to provide training in these areas.

444. One of the difficulties in the Cook Islands education system is to make provision for the widely dispersed student population. In general, the Ministry of Education statistics indicate that the further students are located away from Rarotonga, the poorer the results in basic academic areas apart from the local Cook Islands Maori language. For example, in 1997, of the 12 students who completed long term study awards, only one came from the Outer Islands.

445. No discrimination can be found between the islands including Rarotonga; however, in practice, schools in the Outer Islands need much more assistance than what is being provided if their equipment facilities and standards are to compare favourably with those of Rarotonga.

Teachers

446. Ninety per cent of primary and secondary school teachers are civil servants and the Ministry of Education pays their salaries. Some private schools fund additional teaching positions.

447. There have been increases in recurrent expenditure in each year since 1996 in the education sector. Teachers’ salaries were increased by 15 per cent in July 1997 and later implemented in February 1998, when the funds became available. The minimum salary was increased by up to 100 per cent, while the average salary of teachers was increased by eight per cent.

448. There has been a noticeable improvement in teacher performance and morale through staff development opportunities and the provision of basic resources necessary to do the job.

General

449. There has been increased decentralization of management of the education system to island councils, school committees and community groups. There has been a focusing of schools on revitalization through management training for principals and school committees.

450. The use of the mass media and modern channels of communication to reinforce and complement formal and non-formal education programmes is actively promoted. In the Cook Islands there are two radio stations, one daily newspaper and two weekly newspapers, a modern telephone system with Internet access, and two public libraries and museums that are used to complement education programmes. The two libraries also open one night a week respectively.

Constraints

451. Education is free however, some schools charge school fees, particularly for text books and sitting of exams. Although not compulsory and no student can be refused access to schools if school fees are unpaid.

452. The most common education related expenses which are now paid and were not paid prior to the economic reforms in 1996, are school fees, transport fees and stationery. This means that local communities and parent organizations operate most schools in partnership with the Government.

Equal opportunities

453. In the past ten years, the Cook Islands has demonstrated its support for equitable access to relevant, quality education for all its citizens. Two important principles of equity as it relates to education are:

- Ensuring there is equal access to all levels of education for all Cook Islanders
- Creation of opportunities in education not determined by gender, social class, disability and geographic location

454. The right to development includes free access to education and parents have the right to select the school of their choice subject to personal financial resources. While the Ministry of Education sets curricula, parents through the Parents Association can exercise their influence as to the inclusion of some subjects such as religion, language, culture and vocational subjects consistent with school policy.

455. Although there have been a number of policy development and other initiatives relating to equity of women, little data exists on the differential achievement levels for boys and girls. Anecdotal evidence seems to suggest that boys are now under-achieving in a number of subject areas.

456. The laws of the Cook Islands prohibit discrimination, and the right to education is therefore available to every child. Awarding of all scholarships is based on gender equity.

457. In 1998 a Vocational Guidance Officer was appointed within the Ministry of Education to support training and continuing education programmes. An "Employer's Day" is arranged by individual schools and their school committees to give employers an opportunity to explain directly to students career possibilities in their respective professions, businesses and the like. Senior classes in secondary schools are also given the opportunity to work in various businesses as part of a work day scheme.

Future implementation considerations

458. It is noted that there is little or no extra assistance and recognition given to gifted children within the current education system and therefore this is an area that needs to be considered for further improvement and action.

Levels of education

459. Full-time attendance at an educational institution is compulsory until the age of 15 years. The educational system follows closely the New Zealand curriculum. There are 36 schools in the Cook Islands with, at least, one school on every permanently inhabited island. The total enrolment of 4, 950 in 1998 is the lowest on record for more than 12 years and represents an 11 per cent decrease since 1996. Rarotonga has 56 per cent of the total student population, the Southern Group — 33 per cent and the Northern Group — 11 per cent. The majority of students (85 per cent) attend Government schools. There is only one college on Rarotonga that offers 7th form in preparation for entry to a tertiary institution.

460. Pre-2000, a national examination for the Cook Islands School Certificates assisted in selecting students for Upper Form Five to sit New Zealand school certificate, with further screening for the next level – Sixth Form to sit the New Zealand sixth form certificate and then Bursary examinations in Form seven.

461. Post-secondary and non-formal education programmes are planned and implemented by a wide range of government and non-government agencies. The Public Service Commission was previously responsible for human resource development and management of overseas tertiary scholarships, apprenticeships, trade training and the provision of training opportunities to meet the needs of government agencies, the private sector and the community. Government also advertises tertiary scholarships to study in Australia, Fiji, New Zealand and Vanuatu. The Australian and New Zealand Government sponsor the bulk of the tertiary scholarships with various agencies and Government's also providing specific training opportunities. The scholarships are advertised in the newspapers and afford equal opportunity for all.

462. A Teacher's Training College caters for persons wanting to teach in the Cook Islands. The College also encourages its students to undertake tertiary studies through correspondence. The College was re-opened in February 1999 with increased appropriation for expenditure on school resources in the 1999/2000 Government Budget.

463. The Cook Islands School of Nursing, Hospitality Tourism Training Centre (HTTC) and the University of the South Pacific Extension Services are (USP) based on Rarotonga. However, HTTC staff travel to the Outer Islands to conduct training and USP courses are offered via correspondence.

464. Early education (pre-school) is not a prerequisite to formal education.

Preschool

465. Pre-school in the Cook Islands was established in 1974 and it has been recognized and accepted as an essential part of education. Pre-school is designed for children from 3 years 6 months to 4 years 11 months inclusive who are voluntarily enrolled for pre-school.

466. The Government supports pre schools by paying the salaries of supervisors, making space available in public schools and supplying some teaching and resource materials. There is a Pre-School Advisor attached to the Curriculum Unit of the Ministry of Education, whose responsibilities includes developing curricula and materials, training teachers and parents, and supervising the pre-school operation.

467. Pre schools are required to be kept open for not less than two hours a day and not less than 200 days per year. In practice, most pre-schools are open from 8 am to around midday.

468. In 1998, twenty six of the thirty six schools in the Cook Islands catered for pre-school students. These comprised twenty government schools and six private schools. Two schools (both private) catered solely for pre-school students, ten catered for pre school and primary students and fourteen catered for pre-school, primary and secondary students. In 1998, 74 per cent of pre-school students were enrolled in Government schools. The majority of the students (57 per cent) lived on Rarotonga. Other than official schools, the only recognized early childhood programme is conducted at the Ngaei Tou Memorial Centre on Rarotonga. The Centre is operated by the Disabled Persons Society and catered for twelve special needs pre school students in 1996.

469. In 2000, there were twenty seven schools with pre-school students, one is exclusively pre-school, nine have pre-school and primary level students and eighteen have pre-school, primary and secondary level students. There are two private pre schools both located on Rarotonga.

470. Children aged three to four follow a 'work and play' programme and five year olds are introduced to pre-reading and pre-math's activities. The activities also include cultural aspects such as traditional chants, songs, stories and dances.

471. Each pre-school is managed by a Supervisor who is a trained primary school teacher. In-servicing training has been carried out by the Teachers' Training College, as well as through correspondence from the Wellington (New Zealand) Play Centre.

472. The Supervisors at pre schools are assisted by voluntary mother helpers who also can take correspondence courses to advance their training. Working parents contribute at fund raising and other related activities, and also belong to pre school committees who focus on issues such as raising funds, supplying outdoor equipment and general maintenance of each pre school.

Early childhood education

473. Early childhood education has received significant inputs in terms of curriculum development, teacher training and resources, mainly as a result of the Education Development Project. The framework for more effective teaching and learning has been established. It is noted however, that reliable and valid systems to monitor and measure the quality of education at this level needs to be developed and implementation.

Table 1.19

Early childhood enrolments 1993–1999

<i>Year</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
Preschool roll	530	527	529	530	447	460	422

474. In the Cook Islands, a comprehensive policy document has now been developed for Early Childhood Education (ECE) with a three year strategic plan and curriculum. Early childhood services are being delivered through government pre-schools attached to primary and secondary schools, private pre-schools and private childcare centres.

475. Private day-care centres are not registered with the Ministry of Education or any other Government agency and therefore no reliable information was available during the writing of this Report.

476. Early reviews of ECE showed a need for better-trained ECE teachers. In 1997, approximately half the teachers held primary-pre-school qualifications - out of the thirty-three employed. Ten teachers were primary trained with eight teachers with no training. Currently, there is no qualification in ECE available in the Cook Islands except through extension study. The University of the South Pacific has a Pacific Pre school Teachers Certificate which in 1999 attracted five enrolments for semester 1 and nine enrolments for semester 2.

477. By 1998, all thirty-one ECE teachers in the Cook Islands had received workshop-based training relevant to the new policy framework.

Future implementation considerations

478. Participation in a high quality early childhood programme is an important indicator for later educational achievement. Although targets for participation were not reached in 1996, it is noted the increase to ninety-two per cent in 2000.

479. Internationally, it is widely accepted that early childhood teaching is a profession, which requires specialist training and is executed through careful planning and preparation. Children should be engaged in appropriate programmes that stimulate thinking and social development. It is acknowledged that a dedicated training programme is required.

480. Allocation of funding and resources should reflect this as a priority area and particular attention should be paid to the training and professional development of teachers, strategies to encourage parents and caregivers to enroll their children in ECE. It is important that early childhood teachers and advisers are actively working to develop links with parents, the community and junior primary teachers. Budget allocations and planning should be directed to meet quality indicators.

481. ECE is not compulsory and therefore parental and wider community support and understanding of its importance is essential if the Cook Islands is to achieve 100 per cent participation rates in the near future. In addition, ECE relies on the active involvement of parents as helpers. The role of the parent as the first educator needs to be genuinely promoted and supported.

Primary and secondary school

482. Children after their fifth birthday, enter primary school at the start of the following term. The primary system is divided into six grades and at the age of 13 years the child enters college (or high school).

483. Colleges have five forms, where all children sit for a (pre-2002) Cook Islands School Certificate (CISC) in either the fourth or fifth form and if a pass is obtained, the student can then sit the New Zealand School Certificate (NZSC). Those who pass the NZSC may enter the sixth form where they sit the New Zealand sixth form certificate, and those who pass this exam can then go on to seventh form to sit the New Zealand University Bursary exam. As explained in paragraph 14.2, the Cook Islands have now adopted the New Zealand standards.

484. The Cook Islands is participating in the UNESCO Associated Schools Project. The purpose of the Project is to teach and promote the aims and principles of UNESCO through the exchange of ideas, people, programmes and visits. At the pre-school level, students are taught and human and moral values through group play, role play, reading and communication and encouraged to develop concepts of helping each other, tolerance and respect. In the primary schools, the concepts of equality and justice are developed through research projects and activities, expanding vocabulary, intercultural studies and international issues of the world. At the secondary/tertiary level, students are encouraged to

understand international conflict and problems through analysis, foreign languages, comparative literature and integrated themes studies; study of human rights, environmental disasters and United Nations observance days. There are ten schools participating in the Project including the Teachers Training College. The Project is mainly implemented within the Social Science, Geography and Languages curriculum as well as being largely involved in the community on a local and national level. Some of the activities implementation include the celebration of World Racial Discrimination Day, World Health Day, the Rarotonga Schools Cultural Festival and the adoption of beach areas to keep clean.

485. It is difficult to ascertain drop out rates because the figures are unreliable. Particularly, in determining the numbers of students 'dropping out' in Outer Island schools because sometimes they transfer to another school on another island or they leave school completely or they travel overseas to Australia or New Zealand either for several months or to live. However, the Statistics Division of the Ministry of Education is considering compiling these figures.

486. Senior college levels are only accessible and confined to the larger islands. To attend a Form 6 class, students must go to school on Rarotonga or Aitutaki. Mangaia College dropped the Form 6 class in 1996 due to a lack of specialist teachers. Where students from the Outer Islands meet the entry rules, the Government will give them awards to attend school on Rarotonga. In 1996, only three students from the Northern Group used the award to attend the upper fifth class on Rarotonga. Alternatively, some students elect to undertake these higher level classes via correspondence.

Literacy and numeracy

487. The Education Sector Action Plan is aimed to improve national primary education standards, which is yet to be achieved. Annual STACI tests indicate that there has been some improvement in Mathematics but standards in both English and Maori have declined since 1994.

488. Each year, standardised tests of achievement are tested in Grade 5 English, Grade 6 Maori and Grade 7 Mathematics. Marks are converted in stanines or groups, ranked from 1–9. The same test is administered each year. The means for those schools which provided results each year since 1994 have all declined except for mathematics.

489. The Pacific Islands Literacy Surveys (PILS) in English and Cook Islands Maori were conducted in 1990 and then conducted again in the same schools in 1997. The survey involved Grade 6 students in selected schools in the Southern Group and Rarotonga. The data indicates a possible marginal improvement in English literacy since 1990 whereas literacy in Cook Islands Maori has remained unchanged.

Future implementation considerations

490. The National Human Resources Development Policy framework highlighted the importance of basic literacy and numerical skills. Student achievement rests heavily upon mastery of these basic skills. Student achievement rests heavily upon mastery of these basic skills. The Basic Education and Life Skills (BELS) programme have provided support in reading acquisition. However, despite the provision of up to date resources many teachers lack the skills to provide a comprehensive reading programme. Students entering secondary school with low levels of literacy have been noted. The teaching of reading requires a considerable amount of training, as does providing remedial assistance.

491. The Education Gazette in July 2000 noted that the analysis of the Grade 4 diagnostic tests confirms a long held concern that the reading ability of students in the Grade 4 is cause for grave concern. The Cook Islands Reading Strategies Project is therefore intended to assist teachers in developing strategies to help children with reading difficulties. The aim

of the project is to enhance the capacity of teachers at the Grade 1–3 levels to teach instructional reading. Teachers have now been encouraged to identify reading difficulties as early as possible in a child’s primary education through in-class assessment.

Language

492. Concerns about the loss of the Cook Islands Maori language are not unique to the Cook Islands. It is a serious issue in the Pacific as it is with other small language groups world-wide. The concerns and frustrations are compounded because many parents feel that the education system is not seen to be coping with the issue. Several threats to the use of the Cook Islands Maori language have been identified. These include the: (a) pervasiveness of the English language through the media; (b) poor standard of Maori on television, radio and in print; (c) impact of technical English through the increasing use of computers and other technology.

493. If Cook Islands Maori is to flourish it is necessary to consider a broad-based strategy. This would include development of dictionaries to complement the existing Buse Dictionary of Cook Islands Maori and promotion of oral language forums of competitions.

494. Efforts are already underway which includes the appointment of a Maori Language Curriculum Advisor. Radio broadcasters, public health advisors and the Police also use Maori language in their promotional and outreach activities.

495. The role of the Maori Language Curriculum Advisor is critical in implementing a programme of professional development to ensure that teachers may be able to assist with the preparation of teaching modules and resources.

Future implementation considerations

496. The Ministry of Education recognizes the necessity in assisting students to become fully bilingual. This is consistent with international research that indicates that multiple language learning assists learning in a range of areas.

School discipline

497. All children under the age of 15 years are bound by law to attend school. Those who play truant are reported to the Truancy Officer previously based with the Probation Division of the Ministry of Justice but now with the Ministry of Internal Affairs.

498. Discipline in the schools is administered in a manner consistent to the Convention. Under section 56(1) of the *Education Act 1986/87*, a principal or teacher may when all other courses of action (withdrawal of special privileges, placing the child on detention, which may involve doing menial tasks around the school, or extra homework) have been exhausted, administer reasonable corporal punishment to a school child. Corporal punishment may only be administered with the concurrence of the principal of the school and the school committee.

499. A child over 12 years of age may be suspended or expelled by a principal of a Government school, after consultation with the relevant school committee.

500. Please refer to previous discussions under article 19.

Future implementation considerations

501. The policy on corporal punishment and teachers training college programme must support positive reinforcement as a means to good learning and the abolition of corporal punishment.

Alternative education

502. The Roman Catholic Church, Seventh Day Adventist Church and Assembly of God Church manage schools on Rarotonga, Mauke, Aitutaki and Atiu accounting for 12 per cent of the 1998 school enrolment. There are two private (non-religious) schools on Rarotonga accounting for 3 per cent of the 1998 student enrolment.

503. Government provides approximately 25 per cent of the operating costs of non-government schools on Rarotonga. For example, Government assistance to Nukutere College (Catholic) on Rarotonga amounted to Government paying 75 per cent of teachers' salaries and 75 per cent of the school's Operations Grant (i.e., money for telephone, fax, electricity, books, cleaning materials, stationery, etc). From the beginning of 2002, this will rise of 90 per cent payment by Government. Government does not pay for new buildings or maintenance.

504. The schools provide an environment based on the values of the gospel. Although religious schools, they are not exclusive in this regard so that students of other religious beliefs can feel comfortable in its Gospel values based education. For example, in 1998 the Catholic Nukutere College – 70 per cent of school enrolment is Catholic, 26 per cent is Cook Islands Christian Church, with the remaining 4 per cent being a combination of Mormon and Seventh Day Adventist denominations.

505. The school set up by the Assembly of God community does not follow the curriculum established by the Ministry of education rather it is based on an American curriculum.

Post-secondary

506. The Cook Islands Youth Empowerment Project managed by the Ministry of Internal Affairs provides funding awards (NZ\$500 each) for ten youths aged 16–24 years to pursue training for personal or career development skills. The project runs on a quarterly basis each year.

**Article 23
Disabled children****Legal context**

507. There are no specific legal provisions relating to disabled children. However, reference is made in the provisions of the Welfare Act 1989 to destitute and infirm persons as being entitled to receiving a monthly financial allowance from Government.

Implementation

508. The first government policy to recognize children with disabilities was a draft Special Needs Education Policy prepared in early 2000. The Special Needs Advisor who was appointed to the position in October 2000 re-wrote the policy and the revised version was officially endorsed by the Secretary for Education in February 2002.

509. As part of this policy, a survey was undertaken to determine the number of children of school age with special needs in the Cook Islands. The results of this survey are provided in table 1.20 below. This survey was a snapshot survey for which the surveyor visited only three islands – Mangaia, Rarotonga and Penrhyn. The survey contains some major inaccuracies, for example, it shows that 54 per cent of the students in the Northern Group have a hearing impairment. This is a gross exaggeration of reality. In October 2001, a

consultant from Inclusion International conducted a training workshop to train individuals to conduct a survey of all islands in the Cook Islands.

Table 1.20
Cook Islands Disability Identification Survey 2002

<i>Disability</i>	<i>Age</i>							<i>Total</i>
	<i>0-5</i>	<i>6-14</i>	<i>15-20</i>	<i>21-30</i>	<i>31-40</i>	<i>41-50</i>	<i>50+</i>	
Autism	1	1		2				4
Behaviour problems	2	9	5	2	5	8	6	37
Cleft palate	4	8	6	6		3	5	32
Deafness/hearing	2	29	6	20	9	9	15	90
Down syndrome	1	6	2	4	4			17
Epilepsy	3	9	8	14	19	11	7	71
Haemalegia		1	3				1	5
Hydrocephaly		1	1		1			3
Intellectual disability	5	23	23	46	47	24	25	193
Mental illness				2	6	6	13	27
Multi-disabled	4	6	3	3	3	1	2	22
Other/illness	2	5	3	5	3	2	22	42
Physical disability	4	9	12	14	26	22	73	160
Slow learner	3	28	7	5	6	9	2	60
Speech impediment	1	1		6	5	4	1	18
Talipes	2	4	2	5	1		4	18
Visual impairment	3	12	2	3	6	4	26	56
Total	37	152	83	137	141	103	202	855

510. The Cook Islands Identification Survey identified 119 school-aged children with disabilities it has been disaggregated as follows in table 1.21.

Table 1.21
Children with disabilities

<i>Island</i>	<i>Number of school aged children</i>	<i>Number currently attending school</i>	<i>Number currently not attending school</i>
Aitutaki	16	6	10
Atiu	2	1	1
Mangaia	10	6	4
Manihiki	4	1	3
Mauke	6	1	5
Mitiaro	24	23	1
Nassau	0	0	0
Penrhyn	2	0	2
Pukapuka	5	0	5
Rakahanga	9	8	1

<i>Island</i>	<i>Number of school aged children</i>	<i>Number currently attending school</i>	<i>Number currently not attending school</i>
Rarotonga	41	14	27
Total	119	60	59

511. Intellectual disability was found to be the most frequently occurring disability and together with physical and communication disabilities make up almost 90 per cent of the disabled population.

512. The Cook Islands Disability Council was established in March 2001 following recommendations made at a national Workshop for Disabled Persons organized by Government and interested NGOs. A Special Needs Coordinator was appointed as the national focal point for Government and works closely with the Council. The Coordinator is based with the Ministry of Internal Affairs. The role of the Council is to help coordinate the planning and implementation of a comprehensive range of development programmes to address the wide range of disability issues confronting the country. This includes the issue of education for all irrespective of whether the child has mental or intellectual and/or physical disabilities. A policy for those with special needs and physical disabilities is being currently drawn up.

513. With the establishment of the Council, several Outer Islands have followed suit and formed their own Councils to assist those with disabilities in their communities.

514. Care of children with disabilities has traditionally rested with their families. NGO's usually church groups, women's and community organizations have provided the bulk of assistance to these families through the donation of food, clothing, money and in-kind. The only formal type of assistance disabled children receive from government is the destitute and infirm benefit. However, it is acknowledged by caregivers of disabled children that more support is required as anecdotal evidence suggests that these children are not being given the proper care and support either by families or government officials. In the Outer Islands, there is evidence that some children (usually exceptional cases) live in sub-standard houses. Public health nurses supervise general health care up to five years of age, although not all needs can be met due to lack of expertise. Children from the Outer Islands are usually transferred to Rarotonga at Government's expense for consultations. Vision and hearing assessment is provided during early school years.

515. The Ministry of Internal Affairs disburses financial benefits to the destitute and infirm. No extra allowances are paid to support families of disabled children. The following table 1.22 shows the number of persons receiving the destitute and infirm benefit for the period 1997–September 2001.

Table 1.22

Infirm benefit

<i>Year</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
Total	2 998	3 061	3 024	2 820	1 878

516. The Ministry of Education continues to demonstrate its support for equitable access to quality education for all irrespective of gender or disability. Positive and significant national developments as a means to meet the needs of students who have difficulties in the classroom include:

- A skills-based inclusive education in-service training programme was initiated in 1995 and numerous teachers have re-enrolled in the programme. Over 85 completed

the programme funded by NZAID. A review of the programme was undertaken in 2002 which made a range of recommendations.

- The development of a detailed individual record that follows a student through the school system and thereby tracking student progress.
- The development of a draft Special Education Needs policy.
- The appointment of a Special Needs Advisor in 2000 to assist teachers to work more effectively with students with special needs.

517. One of the recommendations from the Education Sector Action Plan was for the establishment of special needs units. As a result a hearing impairment programme was created and located at a school on Rarotonga and special needs units are located at a primary school and a public centre both on Rarotonga.

518. There are two societies in the Cook Islands that cater for the needs specific to disabled children – the Crippled Children’s Society and the Disabled Children’s Society, both being non-government organizations. The two organizations were established to provide early intervention services for children with disabilities, with the former being responsible for funding the transfer of children with disabilities to New Zealand to receive fuller medical care. It is understood however, they have been inactive for some time.

519. Community initiatives also resulted in the development of the Cook Islands Learning Disability programme. The programme was formally established following the efforts of one parent, who personally implemented a programme to help her dyslexic child. With the assistance of a women’s NGO – Pan Pacific South East Asia Women’s Association (PPSEAWA), a volunteer was sent overseas to study the Bannatyne System, which is now used to assist school children experiencing reading difficulties. At present, the programme caters for about 40 students in seven primary schools on Rarotonga and is conducted by two full-time volunteers and five part-time volunteers. Training courses for teachers in this programme is ongoing and only if time permits. It has recently received funding assistance from UNICEF – Pacific to support the purchase of resources for the programme.

520. The Bannatyne System is a teaching programme that assists children who have reading difficulties including dyslexia. Cook Islands schools are very well resourced with reading materials, however, reading difficulties involves issues of teacher expertise in teaching appropriate reading skills. The Ministry of Education currently employs a Reading Adviser who is working in schools to improve the skills of teachers in teaching reading. The volunteers have been able to identify very quickly those children who have not received attention at school and therefore have reading difficulties.

521. Rarotonga school age students with disabilities may enrol at the Te Apii Apiianga Po-roro a Special Education class which is considered part of Avarua Primary School and is not a stand-alone unit. As the students develop their knowledge skills and confidence is enhanced they are progressively phased into the mainstream classes, although no students have been phased into the mainstream thus far. The Ministry of Education assumed official responsibility for the Special Education class in March 2002 and pays the salaries of two staff members. Transportation to and from the school is provided free of charge to the children using a vehicle donated partially by overseas aid and the Disabled Persons Society. Petrol for the van is donated by Mobil to the value of \$2,000.

522. The Rarotonga Disability committee who operates the Creative Centre for adults with disabilities operates the Ngaei Tou Memorial Centre. The Committee employs a person on a full time basis to manage the Creative Centre.

523. There are two societies in the Cook Islands that cater for the needs specific to disabled children – the Crippled Children’s Society and the Disabled Children’s Society. Both these societies are non-government organizations established to provide early intervention services for children with disabilities. Prior to 1996, both organizations received financial grants from Government, which ceased following the economic reforms. Grants to the Disabled Children’s Society (about \$10, 000 annually to cover the cost of operations, transport and personnel) recommenced in 2001. The Disabled Children’s Society still seeks support from non-government sources to supplement Government allocations.

524. The Crippled Children’s Society is currently inactive. The purpose of this Society was to assist with the logistics in transferring children with disabilities to New Zealand for further or specialized treatment and assistance. Funding for the Society was sought from non-government sources both in the Cook Islands and New Zealand. Perhaps the main reason to explain its inactivity is due to the Ministry of Health assuming this role of medical referrals to New Zealand. Health care for disabled children is free.

Future implementation considerations

525. It is acknowledged that funding for all special needs children (and not just children on the main island of Rarotonga) including transport costs (to enable the children to attend their centres) is included in the annual Government budget. The Ministry of Education does not fund transport specifically for special education children to travel to school. Transporting students to school remains the responsibility of the parents whether the students are disabled or not. Government does not fund the van currently being used on Rarotonga. Mangaia is the only where Government funds transport for students to get to school.

526. There needs to be strong acknowledgement from the Ministry of Education that inclusive education policy is a priority and that support will be provided. If schools are to be successful with all students, funding considerations with regard to resources, teacher-aides, adviser contacts and other specialist assistance requires forward planning. Policy is currently being written for teacher aides, eleven teacher aides from the Outer Islands were undertaking courses for Teacher Aides by correspondence.

527. The Advisor in special education has a critical role to play in the development of effective special education provision in the Cook Islands. Knowledge of consultation practice, subject curriculum areas and specialized education interventions will be necessary.

Article 29

Aims of education

Legal context

528. Article 29 of the Education Act 1986/87, provides that “every teacher shall respect the right of every child to be treated with understanding, dignity and respect.” The Act also provides that the curriculum for all schools shall include the Cook Islands language and culture.

Implementation

529. The school curriculum takes into account the development of a child’s cultural identity by ensuring that there are classes dealing with the Maori language, Maori dancing, wood-carving and cultural traditions.

530. Please refer to discussions under article 28 for further expansion on this area.

Article 30

Children of minorities or indigenous populations

Legal context

531. The Race Relations Act 1972 and s. 55 of the Education Act 1986/87 require all children to be treated with understanding, dignity and respect. All minority children are afforded the same treatment as Cook Islands Maori children, they cannot however, inherit land.

532. Please refer to discussions under articles 13, 14 and 15 on the Convention and to Article 64 of the Cook Islands Constitution (referred to under article 2) that declares non-discrimination on the basis of national origin and religion.

Implementation

533. Cook Islands Maori persons, the indigenous population, comprise by far the greater proportion of the population in the Cook Islands, the largest minority being generally classed as 'Europeans' most of the latter being of New Zealand non-Maori origin. There are relatively small numbers of permanent residents from other countries (e.g., Australia, United States) as well. What might be described as a general 'European' culture exists alongside Maori culture, at least on Rarotonga where all but a handful of Europeans reside. The English language is commonly used, particularly on Rarotonga.

534. The Ministry of Education is committed to granting equal access to all children irrespective of race, creed or religion.

535. Access to scholarships is available only to Cook Islands nationals or permanent residents (which includes non-Cook Islanders).

536. Language classes are available at a number of schools on Rarotonga and are through the Alliance Française organization.

Article 31

Leisure, recreation and cultural activities

Legal context

537. Under s. 35 of the Education Act 1986/87, pre-school institutions shall be kept open for not less than two hours a day and for not less than two hundred days a year. Primary schools are to be open for not less than four days a day and for not less than two hundred days a year. Secondary schools are to be open for not less than five hours a day and for not less than two hundred days a year; and no school shall remain continuously open for any term exceeding fifteen weeks. The Act further provides that "Every teacher shall respect the right of every child to be treated with understanding, dignity and respect". It also provides that the curriculum shall include the Cook Islands language and culture.

Implementation

538. All children including those of minority communities are encouraged to participate in cultural and artistic activities both at home and at school, to practice their own religion, and to learn their own language.

539. Sports are organized in schools and between the schools. Other sports organizations outside of the schools provide opportunity to play various sports including touch rugby, athletics, and surfing.

540. Art, singing and dancing competitions and similar events are regularly organized by various government agencies and all children are invited to participate in these activities either through their schools or as individuals.

541. Instruction in all schools is in English and in Cook Islands Maori for some schools. Art is taught throughout the school curriculum.

542. Physical education and sports are compulsory in the primary and secondary school curricula. All schools belong to national school organizations for certain sports, such as athletics, rugby, netball and volleyball. Sports organizations conduct inter-school sports competitions and provide assistance with coaching. Some children have been selected for national representation in international competitions in various sporting codes such as netball, rugby, martial arts and yachting.

543. PPSEAWA, a women's NGO has developed Peace Centres or reading nests in public libraries and schools. These reading nests are a location for various activities centred on reading, singing, dancing and drama takes place under the tutelage of adults.

X. Special protection for exploited children

Article 32

Child labour

Legal context

544. The Industrial and Labour Ordinance 1964 governs industrial and labour conditions in the Cook Islands. These include that no boy or girl under sixteen years of age may be employed in any factory between the hours of 6 pm and 7 am or on any Sunday or public holiday. No person under 18 years of age shall be employed in any employment which in the opinion of the Industrial Relations Officer is a dangerous occupation, unless he has been fully instructed as to the dangers arising in connection with the machine.

545. Every worker shall be entitled to receive from his employer payment for his work at not less than the appropriate minimum rate determined from time to time by the Minister of Labour and Commerce.

546. The International Labour Organization Convention Concerning Minimum Age for Admission to Employment is not legally binding on the Cook Islands however, all substantive provisions of the Convention are reflected in Cook Islands legislation and actual practice.

547. The minimum ages which international law establishes for child labour are closely related to the age for completion of compulsory education, which in the Cook Islands is 15 years.

548. The Transport Act 1966 provides that only those applicants of or over the age of 16 years will be eligible to apply for a motor driver's license. However, under the Act, a motor driver's licence shall not authorize a person under the age of 18 years to drive a heavy trade motor or a heavy type vehicle. Nor may any person under the age of 21 drive a taxicab, motor omnibus or a passenger-service vehicle.

549. The Crimes Act 1969 protects children under the age of 18 years from labour and sexual exploitation including incest, sexual interference, assault and indecencies.

Implementation

550. The Labour and Consumer Affairs Division of the Ministry of Internal Affairs is responsible for monitoring the implementation of the labour laws and regulations.

551. A child assisting with family chores is widely practiced in the Cook Islands. Some children also participate in the evenings in cultural activities by performing in cultural dance troupes either at tourist spots or local events. There are some commentators who feel view children performing in cultural dance teams as being exploitative however, this is not seen as contrary to the current labour laws but as sharing cultural experiences with those from other cultures.

552. Child labour of an exploitative nature does not exist in the Cook Islands. In practice, children are expected to perform daily tasks around the home. These include cleaning in and around the home, raking rubbish, weeding gardens, feeding domestic animals and caring for family as well as extended family members. The positive aspect of this type of labour is that Cook Islands children have a high regard for the environment and learn manual skills very quickly and at a young age. The problem that may be encountered is that children are sometimes deprived of the little time they have after school for leisure, friendship and schoolwork.

Article 33

Drug abuse

Legal context

553. The Narcotics Act 1965 makes dealing illegally in narcotics a serious criminal offence.

Implementation

554. The Cook Islands is currently undertaking a complete review of its legislation in this area by a Committee composed of five members of Parliament to tighten up on the misuse of drugs, especially as regards young persons. Any legislation adopted should enable the Cook Islands to meet international obligations in these areas, in particular the provisions of the Single Convention on Narcotic Drugs 1961 and the Convention on Psychotropic Substances 1971.

555. Anecdotal evidence shows that alcohol abuse among teenagers is on the increase. Police records demonstrate that underage drinking is not enforced and police with regard to consumption and selling of alcohol.

556. Recently, work is being undertaken to curb the alleged use of marijuana. A number of young adults have been arrested for possession and the numbers although allegedly small indicate a rise in marijuana drug use. A case in 1999 of three secondary students who suffered from an overdose of a drug were eventually hospitalized, demonstrates that children still want to experiment with drugs despite the risk.

557. The Public Health Department has played an active role in promoting good health, by encouraging the general public to reduce their consumption of alcohol and tobacco for a healthy lifestyle.

Future implementation considerations

558. The Ministry's of Education and Police provide instruction in drug abuse training programmes for senior secondary schools, however, it is important that this be extended to

junior classes as junior students are also experimenting with these drugs. Greater awareness by students and the public generally will highlight the risks and dangers of drug abuse.

559. Public education about drug abuse and the risk to good health of alcohol, tobacco and substance abuse needs active support from other community groups.

Article 34

Sexual exploitation

Legal context

560. The Crimes Act 1969 provides that a person is liable to imprisonment for a term not exceeding seven years who has or attempts to have sexual intercourse with any girl, not being his wife, who is under the age of twenty-one years and who being his step-daughter, foster daughter, or ward is at the time of the intercourse living with him as a member of his family.

561. Under the same Act a person is liable to imprisonment for a term not exceeding seven years who indecently assaults any girl of or over the age of sixteen years or does anything to any woman or girl of or over the age of sixteen years, with her consent, which but for such consent would have been an indecent assault, such consent being obtained by a false and fraudulent representation as to the nature and quality of the act.

562. Every one is liable under the Act to imprisonment for a term not exceeding five years who conspires with any other person by a false representation or by other fraudulent means to induce any woman or girl to have sexual intercourse with any male who is not her husband.

563. The Act further provides that everyone is liable to imprisonment for a term not exceeding seven years who induces any woman or girl to have sexual intercourse with him by a wilful false representation that they are married.

564. No man according to the Act shall be convicted of rape in respect of his intercourse with his wife, unless at the time of the intercourse – (a) there was in force in respect of the marriage a decree nisi of divorce or nullity, and the Parties had not, since the making of the decree, resumed as cohabitation as man and wife with the free consent of the wife; or (b) there was in force in respect of the marriage a decree or judicial separation or a separation order.

565. The Films and Censorship Act 1985 provides that the Censor in determining whether the exhibition of any film is or not likely to be undesirable in the public interest, or is or is not contrary to public order, or is not indecent, shall consider the extent and degree to which, or the manner in which, the film depicts, includes, or treats anti-social behaviour, cruelty, violence, crime, sex or indecent or offensive language or behaviour and the extent and degree to which and the manner in which the film denigrates any particular class of the general public by reference to the colour, race, or ethnic or national origins, the sex, or the religious beliefs or the members of that class.

566. Under the Marriage Act 1973, a marriage licence shall not be issued to any person under the age of 16 years. The Act further provides that a minor may enter into a marriage only after the consent of his parents or legal guardian has been obtained.

567. Refer also to article 23.

Implementation

568. Since the early 1990's, there has been an increase in the number of reported crimes against children as noted by the statistics from the Ministry of Police and PTI. This increase is most probably the result of increased public awareness campaigns on the matter. Once the alleged offence has been reported to either PTI or the Police, the Probation Services and Police are required to investigate the complaint.

Future implementation considerations

569. A review of legislation relating to sexual exploitation should be undertaken.

Article 35

Sale, trafficking and abduction

Legal context

570. The Crimes Act 1969 includes a term of imprisonment of up to 14 years for selling, purchasing, transferring, bartering, letting, hiring or in any way whatsoever dealing with any person as a slave; or employing or using any person as a slave, or permitting any person to be so employed or used; or being a parent or guardian of any child under the age of 18 years, delivering that child to another person with intent that the child or his labour shall be exploited.

571. Every one is liable under the Crimes Act to imprisonment for a term not exceeding 14 years who takes away or detains any girl, whether she is married or not, without her consent, or with her consent obtained by fraud or duress, with intent – (a) to marry her or to have sexual intercourse with her; or (b) to cause her to be married to or to have sexual intercourse with any other person.

572. Every one is liable to imprisonment for a term not exceeding 14 years who unlawfully carries off or detains a person without his consent, or with his consent obtained by fraud or duress, with intent – (a) to cause him to be confined or imprisoned; or (b) to cause him to be sent or taken out of the Cook Islands; or (c) to hold him for ransom or to service. A child under the age of sixteen years shall be deemed to be incapable of consenting to being carried off or detained. No one shall be convicted of an offence who gets possession of any child, claiming in good faith a right to the possession of the child.

573. Every one is liable to imprisonment for a term not exceeding seven years who, with intent to deprive any parent or guardian or other person having the lawful care or charge of any child under the age of sixteen years of the possession of the child, or with intent to have sexual intercourse with any child being a girl under that age, unlawfully – (a) takes or entices away or detains the child; or (b) receives the child, knowing that the child has been so taken or enticed away or detained. It is immaterial whether or not the child consents, or is taken or goes at the child's own suggestion, or whether or not the offender believed the child to be of or over the age of sixteen. No one shall be convicted of an offence that gets possession of any child, claiming in good faith a right to the possession of the child.

574. Refer to article 9 for further information on the practices in the Cook Islands.

Article 36

Other forms of exploitation

Legal context

575. The Crimes Act 1969 provides that every one who as a parent or person in place of a parent is under a legal duty to provide necessaries for any child under the age of sixteen years, being a child in his actual custody, is criminally responsible for omitting without lawful excuse to do so, whether the child is helpless or not, if the death of the child is caused, or if his life is endangered or his health permanently injured, by such omission.

576. The Juvenile Crime Prevention Committee was established under the Prevention of Juvenile Crimes Act 1968 to make enquiries into any child under the age of sixteen who is believed to be a delinquent, neglect, indigent or who persistently truants or engaged in mischievous behaviour. The Act also establishes the Children's Court where a Justice or Judge will hear and determine cases involving children under sixteen years of age in private hearings.

577. It also provides that every one is liable to imprisonment for a term not exceeding two years who (a) assaults any child under the age of fourteen years; or (b) being a male, assaults any female.

578. See also commentary to article 3 above.

579. Infanticide is a crime under the Crimes Act 1969.

580. The Criminal Procedure Act 1980-81 provides that any person convicted of an offence punishable with death was under the age of 18 years at the time of the commission of the offence, the sentence to be passed on him or her shall be a sentence of imprisonment for life, instead of a sentence of death.

Future implementation considerations

581. Although juvenile delinquents are supposed to be separated from adults in the sole prison in the Cook Islands, when there is a lack of space in the juvenile offenders' quarters, they are placed in with the general population. In that regard, the Cook Islands made the following reservation to article 37 of the Convention:

“The Cook Islands accepts the general principles of Article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible. The Cook Islands reserves the right not to apply Article 37 in so far as those provisions require children who are detained to be accommodated separately from adults.”

Article 38

Armed conflicts

Legal context

582. The Cook Islands does not maintained armed forces and therefore is not involved in any armed conflict of any kind.

Implementation

583. The Cook Islands Red Cross Inc. undertakes various educational and training programmes in particular, international humanitarian law classes, safety and first aid, disaster preparedness and relief.

**Article 39
Rehabilitative care****Legal context**

584. There are no formal rehabilitative services for children of neglect, maltreatment or exploitation offered in the Cook Islands.

585. The Cook Islands recently acceded to the four Geneva Conventions of 12 August 1949 and the two Protocols Additional to the Geneva Conventions of 8 June 1977.

**Article 42
Dissemination of information**

586. Under the Convention, Government is obliged to make the principles and provisions of the Convention widely known to the general public. Various non-Government organizations have been actively involved in the dissemination of information on the Rights of the child and play an important role in facilitating the understanding of the principles of the Convention to the public generally.
