



Convention on the Rights of the Child

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Committee on the Rights of the Child Fifty-ninth session

Summary record of the 1686th meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 January 2012, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Initial report of the Cook Islands (continued) (CRC/C/COK/1 and Add.1;
CRC/C/COK/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Cook Islands took places at the Committee table.*
2. **Mr. Glassie** (Cook Islands), replying to questions raised earlier, said that the inhabited outer islands were equipped with well-maintained hospitals and that a clinic was located on one of the atolls. In cases of emergency, patients were flown either to Rarotonga or New Zealand at the Government's expense. Specialists provided advice to the inhabitants of the outer islands via teleconferences and the Government was looking at ways of further capitalizing on telemedicine to obtain expert assistance from New Zealand and other countries. The Government provided medicines free of charge to the inhabitants of the outer islands and made separate budgetary provision for catastrophes such as cyclones.
3. Further measures to encourage breastfeeding would be introduced under the employment relations bill, which would be enacted shortly. The same bill, which would apply to employees in the public and private sectors, provided for maternity leave of six weeks, the first two weeks of which would be paid for by the employer and the remainder by the Government.
4. Mental health problems had only been recognized as a form of illness in the State party in the previous 10 years. A centre for people with mental illnesses had been established but the Government could afford to pay only staff costs. The State party had no mental health law but New Zealand and other countries in the region, in particular Samoa, were helping the State party to draft legislation.
5. Child obesity had been recognized as a problem and the public health unit of the Ministry of Health was working to raise awareness of the importance of a healthy and balanced diet. Efforts were being made to reduce the consumption in schools of drinks containing sugar but resistance was strong in the outer islands, where children preferred them to water and coconut milk. A survey conducted in 2011 had shown that the incidence of smoking among young people was rising. The Government was therefore encouraging sporting associations to cut back advertising for cigarettes. The consumption of solvents among young people was a problem but statistics on drug abuse were as yet incomplete.
6. The Ministry of Health had made condoms available in key locations, including schools and community clinics, around the islands and health workers were working to raise awareness, particularly among parents and nightclub owners, of the spread of sexually transmitted diseases. Daily radio announcements ensured that the message on safe sex reached the inhabitants of the outer islands. Sex education was included in the school curriculum.
7. Although early pregnancies were viewed by families as shameful, responsibility for children born to young girls was generally accepted by the extended family. The suicide rate among young people was increasing and assistance was being sought from psychologists based in New Zealand. The Government was looking at the idea of setting up a 24-hour helpline for young people.
8. **The Chairperson** observed that early pregnancies resulting from incest appeared to be neither reported nor investigated in the State party. Young mothers were often forced to emigrate because of the shame early pregnancy brought on their families. It also appeared

that abortion was permitted in the State party only in the case of obstetric problems, and not even in cases of rape or incest. He asked the delegation to provide more information.

9. **Mr. Glassie** (Cook Islands) confirmed that cases of early pregnancy resulting from incest were generally not reported. Frequently the young mothers concerned went abroad to give birth.

10. **Ms. Maurás Pérez** asked what was done to provide boys and girls with information and counselling, and whether confidentiality for young people seeking help or advice was ensured. She also wished to know whether the Government planned to establish a legal framework to encourage the reporting of cases of abuse that led to early pregnancies and illegal abortions.

11. **Mr. Glassie** (Cook Islands) underlined that abortion was illegal in the State party and said that the Ministry of Health, the Ministry of Education and churches all worked to raise awareness of issues related to sexual relations between young people, contraception and early pregnancy. The Government relied largely on health workers to circulate information. Early pregnancies placed a burden on public funds and so it was in the Government's own interest to combat the problem.

12. **Ms. Aidoo** said that she would like to have more information on the role of the adviser to the Government on adolescent and reproductive health, whose position had been created with the support of the United Nations Population Fund (UNFPA).

13. **Ms. Drollet** (Cook Islands) said that a reproductive health-care coordinator appointed by the Ministry of Health had been working for some years in schools, youth groups, churches and the wider community to raise awareness of issues related to reproductive health. In 2011 several workshops on the subject had been held on some of the outer islands, regular community health programmes on sexual awareness had been conducted and a two-day event focusing on safe sex, nutrition, tobacco and alcohol had been held for college students. Nine youth peer educators had been trained to assist young people with health concerns. A youth-friendly clinic established in 2010 provided family planning advice, counselling and pregnancy testing. In 2011, the youth and sports division of the Ministry of Internal Affairs had, with the support of UNFPA, set up an advice centre for young people.

14. There was no specific programme in place in the State party to oblige fathers to pay child maintenance. Under a cooperation agreement with New Zealand, however, information was shared on how to reinforce the family role of fathers in the Cook Islands.

15. **Ms. Varmah** asked whether the Government provided mothers with legal aid to claim child maintenance from the fathers of their children, given that the legal costs involved were prohibitive for most of them.

16. **Ms. Drollet** (Cook Islands) said that a court order could be issued to enforce child maintenance payments. Legal action was taken in some cases by private lawyers on a pro bono basis, but official legal aid was normally available only for cases involving criminal offences. However, the issue of accessibility of legal aid was being discussed as part of the Family Law Bill. The relevant Government departments were also considering the options for international reciprocal arrangements for child maintenance, especially with New Zealand and Australia, but no final decision had been taken as yet.

17. The Child and Family Services Division of the Ministry of Internal Affairs provided counselling and support services for child victims of abuse in collaboration with a youth support service in the Ministry of Health and NGOs such as Punanga Tauturu Incorporated. The Division also worked in partnership with school counsellors to support victims of sexual and physical abuse. A referral system to institutionalize that relationship was being established with the assistance of the Ministry of Education.

18. New Zealand did not officially repatriate children who were in conflict with the law. Such repatriations were normally due to family decisions. However, discussions aimed at identifying such cases had been held with the New Zealand Ministry of Social Development.

19. The current education policy sought to mainstream children with disabilities in the education system. The Disability Act 2008 and the related strategy also focused on the principle of empowerment of children with disabilities, who were encouraged to participate fully in society.

20. The Family Law Bill as currently drafted would repeal the Cook Islands Act 1915 and recognize all adoptions. The existing discriminatory provisions would thus be abolished.

21. The policy of the Ministry of Education was to keep children with their families. If educational facilities were available on an island, families were not encouraged to send their child elsewhere. Partial scholarships therefore targeted university-level students in the 16 to 18 age group. The Ministry had acknowledged that the payments were inadequate and was currently examining the issue of education in the outer islands.

22. The high dropout rate was influenced by a number of factors. For instance, families might choose to send their children overseas to complete their secondary-school education or entire families might migrate to New Zealand or Australia. Dropping out was not perceived to be a major issue. Under the Ministry of Education's social promotion programme, a child who failed an examination in a particular subject was given the opportunity to repeat that subject while moving forward in other areas.

23. **Mr. Gastaud** asked whether the Ministry of Education had any statistics that might indicate the proportion of the dropout rate that was due to the factors just mentioned.

24. **Ms. Drollet** (Cook Islands) said that there were no precise figures. The Ministry's position was that it preferred to focus on the services it could provide to encourage children to remain in school. As the highest dropout rates occurred among students in the 16 to 18 age groups, alternative options such as vocational training were provided. For instance, the National Human Resources Department funded a Trades Training Centre. The Rakei Toa scheme also provided alternative education for students who had not succeeded in the formal education system. Scholarships were provided for university extension programmes to encourage students to remain in the Cook Islands. Some ministries also supported what were known as young achiever programmes.

25. **Ms. Aidoo** noted that the Rakei Toa alternative education scheme targeted children at risk in the 11 to 15 age group, most of whom would still be at the primary-school level. She requested further information about the scheme.

26. **Mr. Cardona Llorens** drew attention to paragraph 521 of the report, which referred to a special education class for children with disabilities at Avarua Primary School in Rarotonga. However, no students had been admitted to mainstream classes at the time when the report was being drafted. He asked whether any had been admitted in the meantime and whether special education classes were confined to Rarotonga. He also wished to know whether teachers had been trained to communicate in sign language and to cater for students with Down's syndrome or attention deficit disorders.

27. **Ms. Drollet** (Cook Islands) confirmed that the Rakei Toa scheme focused on students in the 11 to 15 age group. It catered for children who had, for instance, committed petty crimes or been involved in truancy. Some had been successfully reintegrated into the mainstream education system. A similar scheme on behalf of 16- and 17-year-old students focused on preparing them for employment.

28. Inclusive education for children with disabilities had become far more widespread since the report was drafted. It was now available both in Raratonga and in the outer islands. A special education teacher with sign-language skills visited schools in Raratonga on a regular basis. As the Ministry of Education sought to meet the needs of all children, she was sure that provision had been made for children with other learning difficulties, but she was unable to provide any specific details.

29. **Ms. Aidoo** asked whether the Rakei Toa scheme was a residential remand programme for minors in conflict with the law.

30. **Ms. Drollet** (Cook Islands) said that it was not a residential programme. However, the courts used the scheme to assist minors in reintegrating into society.

31. **Ms. Henry** (Cook Islands) acknowledged that the penalties imposed under the current Crimes Act were largely outdated and inconsistent. They would all be reviewed to ensure that they reflected the seriousness of the crime and were consistent in terms of their application to the relevant criminal offences.

32. Child witnesses were offered counselling through the Ministry of Internal Affairs and school counsellors. Judges or justices of the peace had jurisdiction to hear children's evidence in chambers, a child-friendly environment that provided reassurance and guaranteed confidentiality. Section 331 of the Cook Islands Act 1915 relieved children of the requirement to give evidence on oath.

33. The Crimes Act 1969 set the minimum age of criminal responsibility at 10 years of age. Children in the 10 to 14 age group could only be held criminally responsible if they knew either that the act or omission was wrong or that it was contrary to law. That approach was broadly consistent with current legislation in jurisdictions such as New Zealand, Australia, Vanuatu and Tuvalu.

34. **The Chairperson** enquired about the degree of criminal responsibility incurred by a minor in the 14 to 18 age group and the minimum age at which a person could be deprived of his or her liberty. Were there separate detention facilities for minors or where they held together with adults? He noted that the Prevention of Juvenile Crime Act 1968 defined a child as any boy or girl under the age of 16 years. Moreover, according to paragraph 149 of the report, the authorities could intervene under that Act if a child was engaged in troublesome or mischievous behaviour which did not necessarily amount to an offence.

35. **Ms. Henry** (Cook Islands) said that 16 years was the age limit applicable to the jurisdiction of the Children's Court. Children over the age of 16 were referred to the High Court system.

36. There were no separate detention facilities for children. That issue would be addressed during the review of the Crimes Act. In a recent case, the Court of Appeal had issued a formal direction to Parliament to address, as a matter of policy, the issue of providing proper facilities to cater for vulnerable groups such as children and women.

37. The Juvenile Crime Prevention Committee was mandated to address the question of troublesome behaviour by minors that did not amount to an offence. In its recommendations to the Children's Court, the Committee highlighted issues pertaining to children's social circumstances, family situation and monetary or other circumstances that might be conducive to such behaviour. Measures were taken to involve parents, teachers and the wider community in solving the problem before the judicial system was required to intervene.

38. **Mr. Gastaud** asked whether educational facilities and pre-release reintegration programmes were provided for minors who were incarcerated. He also asked how the

Children's Court determined, in the case of a minor in the 10 to 14 age group, whether the child had been aware that the act or omission was wrong or that it was contrary to the law.

39. **Mr. Cardona Llorens** asked what proportion of cases submitted to the Juvenile Crime Prevention Committee were referred to the judicial system on an annual basis and how many children were deprived of their liberty each year.

40. **Ms. Henry** (Cook Islands) said that measures were in place to ensure that children who were imprisoned were not deprived of their right to education. Judges and magistrates were required to use their discretion to determine whether young offenders aged between 10 and 14 were conscious of the gravity of the offences they had committed. The young person's conduct during the case and their circumstances were taken into account in that determination.

41. **Ms. Patai** (Cook Islands) provided data on cases in which juveniles aged between 16 and 18 had been tried by the courts in 2010: there had been four cases of assault, seven cases involving cannabis and one case of a sexual offence.

42. **The Chairperson** asked whether legal aid was available to young people who were in conflict with the law.

43. **Ms. Henry** (Cook Islands) said that, while legal aid was provided to children who came before the courts, it was often inadequate as only limited funds were currently allocated to legal aid for the entire population.

44. **The Chairperson** asked if the State party had extended access to education by distance learning, taking advantage of new technology in order to compensate for the inadequate number of teachers on some islands.

45. **Ms. Patai** (Cook Islands) said that the Ministry of Education was currently piloting an e-learning project for schools in the outer islands. It enabled teachers based on Rarotonga to provide support to teachers and pupils on the outer islands, and teachers on Aitutaki to support schools in islands in the Northern Group.

46. Early childhood education was provided on all the outer islands through preschools, which children could attend from the age of three-and-a-half to five, at their parents' discretion. The curriculum provided a core programme reflecting children's interests and encouraging individual and group play. It also included provision for children with additional needs. Parents and caregivers were encouraged to attend preschool to share their children's learning experiences.

47. Human rights education was an integral part of the social sciences curriculum. The human rights education programme included developing pupils' rights, roles and responsibilities as part of a group, and encouraging them to establish their identity by belonging to a variety of groups.

48. Her delegation was not aware of any children living in the Cook Islands who had come from areas affected by armed conflict. The population was relatively homogeneous and on some islands there were fewer than 100 residents. People were therefore generally aware of newcomers and the situation in their countries of origin. While there had been a degree of civil disturbance on islands in some neighbouring States, to date, the Government had not been required to address the issue of providing support to children coming from areas affected by armed conflict.

49. All children born in the Cook Islands had to be registered within two weeks of birth. The Registrar could extend that period to one month if necessary. In the past, the Ministry of Justice had allowed Cook Islanders who gave birth to children in New Zealand to register the births in the Cook Islands, primarily to enable the children to be registered in the Land Court. While that was no longer the case, Cook Islanders who had been born

overseas and returned to live in the Cook Islands could pursue claims in the Land Court by providing a genealogy chart proving their ancestry.

50. The Ministry of Justice had recently indicated that it wished to consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Ministry had been consulted on cases relevant to that Convention only three times in the previous 15 years, which explained why the Government was not yet a party to it. Ratification would depend to a large extent on the administrative cost implications.

51. The Government did not provide any official safety nets for children who required special assistance. There was a tendency to rely on the extended family, including grandparents and in-laws. If the extended family was unable or unwilling to assist such children, the Ministry of Internal Affairs organized family counselling to encourage more distant relatives or people in the child's church or community to intervene. In some cases, children had been placed with families with whom they had no biological links.

52. Some parents sent their young children to live with grandparents on the outer islands owing to the high cost of childcare, which was no longer provided by the Government. While that practice had the advantage of fostering children's relations with their grandparents and encouraged the preservation of the local culture and Cook Islands Maori language, it often caused difficulties when children were reunited with their parents. Apart from the advice of a school counsellor, there were few services available to children who were experiencing behavioural difficulties.

53. **Ms. Aidoo** called on the Government to consider setting up public-private partnerships to fill the gap in delivery of early childhood services, particularly since maternity leave currently lasted only six weeks. She urged the State party to consult the Committee's general comment No. 7 on implementing child rights in early childhood and consider ways in which it could ensure that all children had the best possible start in life.

54. **Mr. Koompraphant** said that the distances between the State party's islands created problems with transportation, the allocation of resources and children's access to services. However, the Committee welcomed the delegation's commitment to improving children's quality of life, and urged the Government to continue striving to fully implement the principles and provisions of the Convention. To do so, it would need to cooperate with other State entities, such as Parliament and the courts, in recognition of the shared responsibilities incumbent on all State entities under the Convention. The Government should work to strengthen the capacity of local authorities to ensure that the children in their jurisdictions enjoyed their rights under the Convention. The Committee's concluding observations would serve as guidance for the State party to achieve its aim to improve the care and protection of all children.

55. **Mr. Glassie** (Cook Islands) said that, in order to ensure the full implementation of the Convention, the Government would focus on withdrawing its reservations to the Convention, setting up a national coordination mechanism to collect data and report to the Government in a timely fashion, enacting key legislation including the family law, education and employment relations bills, and revising the Crimes Act. The country faced several challenges, including geographical isolation, the vast distances between the islands, a declining population, natural disasters and the distance from the urban markets. Those elements contributed to the diseconomies of scale implicit in ensuring the equitable distribution of resources. The Government recognized its responsibilities under the Convention and would continue to foster partnerships with non-governmental organizations and international donors in order to fulfil them. The Committee's concluding observations would be instrumental in improving the enjoyment of children's rights in the Cook Islands.

The meeting rose at 4.45 p.m.