



Convention on the Rights of the Child

Distr.: General
16 October 2012
English
Original: French

Committee on the Rights of the Child Fifty-ninth session

Summary record of the 1685th meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 January 2012, at 10 a.m.

Chairperson: Mr. Zermatten

Contents

Consideration of reports of States parties (*continued*)

Initial report of the Cook Islands

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties *(continued)*

*Initial report of the Cook Islands (CRC/C/COK/1; CRC/C/COK/1/Add.1;
CRC/C/COK/Q/1; CRC/C/COK/Q/1/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) said that, according to the latest census, at the end of December 2011 the population of the Cook Islands had risen to 17,800 persons, 26 per cent of them under the age of 15. Of those under 15, 51 per cent were boys and 49 per cent girls. The population was distributed thus: 74 per cent lived on the main island of Rarotonga, where 24 per cent were under the age of 15; 20 per cent lived on the six southern islands, where 31 per cent were under 15; and the remaining 6 per cent lived on the five northern islands, where 39 per cent were under 15.
3. The census confirmed two features of the Cook Islands: first, that the extreme diseconomies of scale, which made it difficult to provide basic services and made it necessary in the outer islands, for example, for students in different grades to be taught in the same class; and second: the depopulation trend that simply exacerbated those diseconomies. The economic performance of the Cook Islands had nevertheless improved: between 2000 and 2011, real gross domestic product had increased by 10 per cent, and per capita gross domestic product by 25 per cent. Tourism continued to be the principal economic activity, with visitors increasing over the same period from 73,000 to 100,000. Government revenues had also grown between 2000 and 2011, allowing the Government to boost public spending, including in priority areas, such as basic services, and to increase the budgets allocated to social services and social benefits.
4. Benefits were still unequally distributed, however, particularly in the outer islands. At the same time, the brevity of parliamentary sessions and the lack of resources hampered progress on legislation, making NGO involvement in the implementation of the Convention all the more important.
5. The Disability Act, passed in 2008, prohibited discrimination against persons with disabilities and ensured equal access to services. An inclusive education policy for children with disabilities had been implemented, and the Cook Islands had recently submitted its initial report to the Committee on the Rights of Persons with Disabilities.
6. The Family Law Bill, due to be submitted to the Cabinet in March 2012, was expected to give legal effect to the provisions of the Convention, including those relating to adoption, the rights and responsibilities of families and communities towards children, consideration of the best interests of the child, the child's right to be heard, the child's right to be protected from all forms of violence, and the child's right to special protection if deprived of a family environment.
7. Consultations to revise the Crimes Act of 1969 were still under way. Domestic violence, sexual violence against children, child pornography and cybercrimes were expected to be addressed.
8. The new Education Bill, which was to replace the Education Act of 1986–1987, would make schooling compulsory up to the age of 16 and make corporal punishment and verbal abuse in the school system illegal. The Employment Relations Bill, which would raise the minimum age of employment to 16 as well, was being reviewed by a parliamentary select committee.

9. The Cook Islands was yet to withdraw the reservations it had made to articles 2 and 10 of the Convention and implement a national mechanism on children that would facilitate data collection and robust monitoring.

10. **Mr. Koompraphant** (Country Rapporteur) said that the Cook Islands existing laws failed by and large to conform to the provisions and principles of the Convention. Girls who were raped by a family member and became pregnant as a result had no access to antenatal care or specialized services because the family refused to acknowledge the rape. Consequently, an increasing number of children were not registered at birth and had no access to public services, while their mothers had to drop out of school. Moreover, the father usually did not contribute to the child's upkeep, and the mother was obliged to shoulder all the responsibilities herself.

11. The Cook Islands was encouraged to consider withdrawing its reservation to article 2 of the Convention. With regard to the Family Act Bill, which would consolidate all legal matters relating to families, he wished to know when it would be promulgated, how it defined the roles and responsibilities of the relevant institutions and whether it comprised provisions that would be applicable at the provincial and municipal levels. He would also like information on the resources allocated to the Bill's enforcement once it became law and on the social programmes planned for promoting child welfare and protection. He wished to know which database had been used to draw up the national plan of action and which parameters had been used to allocate the necessary resources to its policies and programmes.

12. **Ms. Maurás Pérez** stressed the importance of reviewing the data-collection system with the help of the country's international partners. She welcomed the efforts to combat discrimination, but wondered how success would be measured without a monitoring and evaluation system. Given that tourism was one of the main industries in the Cook Islands, she wished to be apprised of the measures taken to ensure that the tourism industry and the private sector as a whole respected human rights in general and the rights of the child in particular. Did the Cook Islands intend to adopt the International Code of Marketing of Breast-milk Substitutes?

13. **Ms. Aidoo** asked whether the Cook Islands intended to adopt a code of conduct for all tourism stakeholders. Certain industrial activities, such as construction, had an impact on the environment and on the standards of living.

14. **Mr. Kotrane** asked whether the Cook Islands was considering ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, as well as the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138), the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and all the international human rights treaties to which the Cook Islands was still not party. Were there plans to pass a general law, instead of several separate laws, to cover all the rights set forth in the Convention and to remove all the ambiguities, particularly with respect to the legal age for marriage, regarding which he would appreciate more detailed information. The delegation might wish to explain the role of the Juvenile Crime Prevention Committee, and the link between the Ministry of Justice and the Children's Court.

15. **Mr. Gurán** asked whether the State party planned to establish a national human rights commission or an ombudsman's office so that children could make their voices heard and, if so, whether it intended to build on the experience of other countries in the region that had already set up one or other of those mechanisms.

16. With regard to data collection, he noted with regret that in the last census, held in December 2011, the data on children aged 15 to 18 had been merged with that of persons aged 15 to 35. It would have been preferable to present all the data on children together by creating a 0–18 age bracket. Did the State party intend to proceed differently in the next census?

17. **Ms. Sandberg** said that she had the impression that children's opinions traditionally counted for little. She would therefore like to know the State party's intentions for involving young people in national and community policymaking.

18. **Ms. Al-Shehail** said that the State party should take steps to improve people's attitudes towards children with disabilities, who were often disparaged and lacked access to school transport, except on the island of Mangaia, where a minibus service had been provided. She would like the delegation to indicate whether the State party had plans to establish a school bus service for children with disabilities and what measures it had taken to promote inclusive education and ensure that all children, including children with disabilities, could participate in all decisions affecting them and file complaints when they were the victims of violence, harmful practices or sexual exploitation.

19. Lastly, did the State party intend to cooperate with the NGOs that wished to set up a telephone hotline?

20. **Mr. Pollar**, noting that the provisions relating to children were dispersed throughout domestic legislation, which, moreover, had not been revised since 1965, asked whether the State party considered adopting a definition of the child that conformed to article 1 of the Convention and removing the obstacles to the application of the principle of the best interests of the child, namely the lack of access to health services and children's total ignorance of their rights. He also requested information on the situation regarding birth registration in the State party, and an outline of the laws governing the acquisition of nationality in the Cook Islands.

21. **Ms. Wijemanne** said that, having read in the other reports submitted to the Committee that corporal punishment was increasingly rare in schools and institutions, she would like to know whether children who were nevertheless still victims of corporal punishment could lodge complaints.

22. Reliable information received by the Committee suggested that sexual violence committed by family members and outsiders alike posed a real problem in the State party even though few complaints were filed. She therefore wondered whether it was not the lack of protection of privacy — and hence the fear of being publicly identified — that dissuaded child victims from reporting sexual offences. She also wished to know whether the State party had a system in place to protect children from information, such as pornography, that could hamper their development.

23. **Mr. Gastaud** said that he had noted with regret that the State party had still not included a course on the principles enshrined in the Convention in the training on offer to teachers and magistrates.

24. **Ms. Varmah** said that she believed that, on the whole, the children of the Cook Islands were unaware of the Convention and that any efforts to increase their awareness were currently undertaken by NGOs or the United Nations Children's Fund (UNICEF). She therefore wondered whether the State party had allocated the resources needed to set up a mechanism to coordinate and monitor implementation of the Convention.

25. **The Chairperson**, noting that the population of the Cook Islands was declining and ageing at an alarming rate because young people were departing in droves, mainly for New Zealand, asked whether the Government had adopted any policies to dissuade youths from

leaving, given that the economic situation in the Islands was far from poor and per capita income was actually quite high.

The meeting was suspended at 10.55 a.m. and resumed at 11.25 a.m.

26. **Mr. Glassie** (Cook Islands) said that depopulation, which had occurred in part as a result of the building of the international airport in 1974, was indeed a real problem for the country, but the Government could not obstruct the free movement of its citizens. Instead it organized road shows in New Zealand and Australia to induce nationals of the Cook Islands to come back and was further trying to encourage their return by creating jobs in the fishing, farming and tourism sectors, which were the country's main sources of revenue.

27. **Ms. Drollet** (Cook Islands) said that the Government did not intend to have all the legal provisions on children set forth in one law. It was, however, considering drafting a national children's strategy and creating a data-collection mechanism that would make it possible to measure the progress made on implementation of the Convention. In that regard, the Government would be looking to international expertise and the mechanisms already established in other countries for inspiration; all the ministries whose activities in any way affected children would be involved in the process.

28. It was true that the State party had not adopted a standard definition of the child, nor did it envisage doing so as things stood. There were several different minimum ages depending on whether the matter at hand involved juvenile justice (age of criminal responsibility), civil law (marriageable age) or the education system. The current review of the marriage laws should result in the establishment of the same minimum age for marriage for girls and boys.

29. The latest census had not immediately produced results for the 0–18 age bracket because the forms used in the census divided the population into three age groups: those under 15 years (inactive population), those aged between 15 and 59 (active population) and those over 60 (retired population). Only the raw data had been published to date; however, in the coming months, once the survey responses had been analysed further, specific data on the 0–18 age group would be available.

30. **The Chairperson** said that adopting a definition of the child as any minor under the age of 18 would not prevent the State party from setting different minimum ages for criminal responsibility or employment, for example. It was a matter of recognizing that all persons under the age of 18 were a group apart and holders of the specific rights enshrined in the Convention.

31. **Ms. Drollet** (Cook Islands) said that the child was defined in the laws relating to children as any person under the age of 18. The Family Law Bill provided for the establishment and funding of a number of programmes for child victims of crime. The cost of implementing that Bill had been estimated at 1 million dollars, which was twice the size of the regular budget of the Ministry of Internal Affairs.

32. **Ms. Herczog** asked what portion of the budget would be allocated to the prevention of early pregnancy, domestic violence, and abuse.

33. **Ms. Drollet** (Cook Islands) said that part of the budget would be allocated to prevention and awareness activities.

34. The Juvenile Crime Prevention Committee had been established under the Juvenile Crime Prevention Act to find out-of-court solutions to juvenile crime. Since it was more a social than a judicial body, it would be reassigned to the Ministry of Internal Affairs and no longer fall under the remit of the Ministry of Justice.

35. The Children's Court did not form part of the Ministry of Justice but, for practical reasons, it had its offices on the Ministry's premises.

36. **Ms. Herczog** asked whether non-judicial measures were applied and family conferencing arranged for children in conflict with the law.
37. **Ms. Henry** (Cook Islands) confirmed that the Police Department had adopted a policy based on the New Zealand model that favoured resolving family conflicts through non-judicial measures and family conferencing.
38. **Ms. Drollet** (Cook Islands) said that in 2007 the Government had introduced a national youth policy to promote young people's development and dissuade them from leaving the country on completion of their studies. The policy was currently being revised to focus on professional and economic opportunities for young people.
39. **Ms. Sandberg** asked whether young people were involved in development of the policy.
40. **Ms. Drollet** (Cook Islands) replied that young people had been polled in schools as part of the policy review process and NGOs had arranged for focus groups to gather young people's opinions on issues that concerned them.
41. **Mr. Gastaud** asked whether the State party had considered creating a permanent youth forum that could serve as an outlet for young people's opinions on school, politics and leisure.
42. **Ms. Drollet** (Cook Islands) said that young people aged 15 and over had participated in the consultations on the youth policy reform and that a mechanism whereby young people under the age of 15 could express their opinions would be established.
43. **Ms. Henry** (Cook Islands) said that the Government was currently revising the 1969 Crimes Act with a view to incorporating more detailed provisions on sexual offences and child pornography. The Crown Law Office was consulting various public and private stakeholders on the implementation of several recommendations put forward. It had been agreed to introduce new provisions on sexual offences in order to better protect children. They included provisions on: "grooming" of children, child pornography, child prostitution, sexual exploitation of children for commercial purposes, and sexual exploitation of children abroad. Domestic violence would also be addressed in the new version of the Crimes Act.
44. In addition, corporal punishment had been banned in schools under the reform of the Education Act and was to be prohibited in all other contexts as well.
45. **The Chairperson**, commending the State party's willingness to increase its arsenal of legislative weapons for cracking down on sexual offences against children, asked whether there were plans to take measures to raise awareness of the issue among the population at large. He would also like to know whether there would be a hotline, and a code of conduct to alert people in the tourism industry to the risks to children.
46. **Ms. Patai** (Cook Islands) said that the Cook Islands had ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2007 and that, on the recommendations of the National Committee on International Humanitarian Law, the Government planned to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
47. **The Chairperson** asked whether the State party intended to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which afforded children the possibility of lodging complaints directly with the Committee.
48. **Ms. Patai** (Cook Islands) said that the authorities would look into ratification of that instrument. Thus far the private sector had played a very minor role in the implementation of the Convention, but there were plans to involve tourism professionals in the drafting of a code of conduct.

49. No specific breastfeeding data were available, but the Ministry of Health encouraged breastfeeding under its “Breast is Best” campaign. A daily radio programme hosted by specialized nurses advised on pregnancy and infant care.

50. **The Chairperson** asked what training was offered to teachers, health personnel and social workers in the provisions of the Convention.

51. **Mr. Glassie** (Cook Islands) said that the National Human Resources Department was responsible for overseeing the university training and professional development of prospective social workers and health personnel. Following a basic course in the Cook Islands, students were sent to Fiji or New Zealand to complete their professional training, it being a prerequisite for obtaining a job in the Cook Islands in social work or the health sector.

52. **Ms. Drollet** (Cook Islands) said that there were plans to provide training in the rights of the child to members of the judiciary, teachers, health personnel and social workers.

53. **Ms. Henry** (Cook Islands) said that, together with NGOs, the Regional Human Rights Resource Team was organizing human rights training for members of the judiciary, including justices of the peace.

54. **Mr. Koompraphant** (Country Rapporteur) asked when the Family Law Bill would be submitted to Parliament for examination.

55. He also wished to know whether the State party was working with New Zealand to prevent young persons who had emigrated there from the Cook Islands from being returned to their country of origin when they broke the law in New Zealand. What measures did the State party intend to take to encourage New Zealand to help such children instead of returning them to the Cook Islands?

56. **Ms. Al-Shehail** asked whether part of the national budget was allocated to services for children with special needs and what proportion of the budget was assigned to the Ministry of Education.

57. **Ms. Drollet** (Cook Islands) said that numerous consultations had been held on the Family Law Bill with stakeholders, the Government and NGOs, prior to its submission to the Law Society, which was due to complete its review within one month, and the Bill should be submitted to the Cabinet in March. It would next be presented to a parliamentary select committee, after which more extensive consultations could be arranged. The process could take at least six months. Several child protection mechanisms were already in place, and the new Bill would consolidate them in a single instrument.

58. While the Cook Islands did have a strategy for persons with disabilities, the section dealing with children needed to be developed. A public official had been appointed to handle disability issues, and coordinated the activities of the relevant ministries. The Ministry of Education was implementing an inclusive education policy, and the Government funded some NGOs that organized activities for children with disabilities in the outer islands.

59. **Ms. Sandberg** said she understood that children with disabilities were often hidden away because of the shame they brought on their parents. The 2008 statistics furnished by the State party implied that there were no children under 5 with disabilities, which seemed very unlikely.

60. **Ms. Drollet** (Cook Islands) said that there were no special schools for children with disabilities, and the Government stressed the importance of integrating them in ordinary schools. The 2008 data were inaccurate; updated data could be made available to the Committee at the next meeting.

61. **Mr. Koompraphant** (Country Rapporteur) asked what social programmes had been implemented to encourage fathers to assume their responsibilities, including alimony, and what mechanisms had been established to detect cases of domestic violence, particularly sexual violence. He wished to know if there were any programmes to support child victims of crime, for example in filing complaints, answering questions, giving evidence and making statements, and what programmes and measures existed to help children in conflict with the law who had been repatriated from New Zealand. Additional information on cooperation with New Zealand in that area would be welcome.

62. **Ms. Wijemanne**, noting that very few mothers fed their babies on breast milk alone and that there were no laws regulating the promotion and marketing of breast-milk substitutes, asked whether the Government intended to regulate the issue. She would also like to know whether the Government had plans to improve infant care in hospitals as part of the initiatives to make hospitals more baby-friendly, and whether it considered guaranteeing maternity leave for women. There seemed to be a problem of overweight among infants aged 0–5 months, which could be linked to their consumption of breast-milk substitutes. Information on the matter would be appreciated.

63. School-age children also appeared to suffer from nutrition problems. She would be interested to learn whether there were any programmes for improving children's eating habits.

64. According to some sources, suicide and alcohol, tobacco and drug use were on the rise among young people. Could the delegation say whether the State party had implemented any social and psychological youth support programmes?

65. **Mr. Cardona Llorens** noted that children with disabilities were often ill-protected and treated as invalids. Despite the inclusive education policy, children with disabilities had apparently not been integrated into regular classes.

66. According to certain sources, the Ministry of Health obliged young girls with disabilities, especially mental disabilities, to take the contraceptive pill once they reached childbearing age. Could the delegation confirm whether that was the case?

67. The law on adoption dated to 1915 and was not entirely compatible with the Convention. Specifically, the adopting parents had to be chosen with the consent of the biological parents, which could result in an adoption market, and the Maori could adopt only Maori children, which was discriminatory. Moreover, adoptions by Cook Islands nationals in New Zealand were not recognized. All those matters needed to be addressed, and he wondered whether the State party intended to accede to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

68. He would also like the delegation to indicate the age of criminal responsibility.

69. **Ms. Sandberg** pointed out that perpetrators of sexual violence against girls under the age of 12 received maximum prison sentences of 7 years if the victim was a child with disabilities, but sentences of up to 14 years if the victim did not have a disability, which constituted flagrant discrimination. She would like to receive assurances that the authorities of the Cook Islands would amend the provision in question.

70. The report stated that some children with disabilities did not receive proper care and support, and she would be interested to learn what steps the authorities planned in order to rectify the situation.

71. **Ms. Aidoo** asked whether all the islands had preschools and what percentage of children had access to them. She also wished to know whether the early childhood development strategy focused primarily on learning and came essentially under the Ministry of Education or whether it also covered other aspects of development, such as

nutrition and early stimulation, as well as early learning, a more holistic approach, which many studies claimed gave children a better start in life.

72. Concerned by reports that the lack of affordable infant care facilities in Rarotonga meant that many parents sent their young children to live with their grandparents in the outer islands until they were old enough to attend primary school, she asked what support the grandparents received for looking after their grandchildren and whether there were social services to support the children when they returned to their parents, in what could be a difficult transition.

73. Given the inadequate grants awarded to children from the outer islands to attend secondary school in Rarotonga, some students had to live with relatives, who might find them a burden. In those cases, they were often obliged to perform excessive household chores, which could affect their studies. It would be helpful to learn whether the scholarship system had been evaluated and whether there were plans to increase the amount of the grants or to support the students in other ways as well, such as arranging accommodation or providing dormitories for them.

74. She was also concerned about the poor results of students from the northern islands, due in part to the fact that Maori was not their native language and they had little English. What was being done to ensure that all children in the State party enjoyed equal primary and secondary education opportunities?

75. Noting that girls who had given birth while still at school were sometimes stigmatized, she asked what awareness-raising activities had been conducted with parents, teachers, community leaders and students to explain that those girls had the right to complete their studies, and whether childcare was available for those children.

76. **Mr. Pollar** asked whether the State party had conducted any research on drug use or any investigation to determine whether any children from conflict areas were living in the Cook Islands.

77. **Mr. Gastaud** noted that, on the whole, the education system on the Cook Islands was of a high standard, but the drop-out rate in secondary school was relatively high. He wished to know what measures the State party intended to take to tackle the problem and whether there were plans to train secondary education students for the professions needed in the local economy so that they would desist from leaving the Islands because of lack of career prospects.

78. **Ms. Al-Shehail** said that, given that many girls aged 15 to 18 were already mothers, she would like to know whether any regulations obliged schools to allow adolescents to attend school while they were pregnant and after delivery. She would also be interested in knowing whether adolescents had easy access to contraceptives and whether schoolchildren received sex education.

79. **The Chairperson** said that he would like to know what mechanisms had been put in place to help pregnant teenagers, since in some cases they were rejected by their families and then abandoned with their babies and forced to emigrate. He would also like to know whether the Family Law Bill covered adoption and whether human rights education was included in primary and secondary education.

80. There seemed to be huge disparities in access to social services between the main island and the outer islands; further information on the subject would be appreciated.

The meeting rose at 12.55 p.m.