

**UNITED KINGDOM OVERSEAS TERRITORIES AND CROWN  
DEPENDENCIES**

**SUMMARY REPORTS**

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## INTRODUCTION

1. This section of the UK Government's report sets out the progress made in the UK's Overseas Territories and Crown Dependencies in implementing the Convention since 1999.
2. Britain's 14 Overseas Territories, spread throughout the globe, are diverse communities. From 1998, what were once known as British Dependent Territories became British Overseas Territories. Their inhabitants have full British citizenship and residence within the UK.
3. Each Overseas Territory is under the sovereignty of the UK, though not an actual part of it, and most are self-governing. In addition, the Isle of Man Crown Dependency is covered by this section of the report. The UK Government has responsibility for defence and international representation for the Isle of Man, which is otherwise self-governing.
4. The information in this section of the UK Government's report is a summary of that provided by each of the Overseas Territories and Crown Dependencies, the full text of which is supplied in an annex to the main report.

**ANGUILLA**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. While no specific legislation to give effect to the provisions on the Convention has been enacted in Anguilla, provision to safeguard the rights of children is made under existing legislation. It is noted however, that the current OECS Law Reform Project includes legislation to provide for matters dealt with in the Convention. These include:

- Juvenile Justice Bill
- Status of Children Bill
- Adoption Bill
- Child Care & Protection Bill
- Domestic Violence Bill

2. With reference to the list of Issues emanating from the previous report, the reservation regarding Article 37(d) and 32 of the Convention can soon be removed. The Government of Anguilla is currently developing a Juvenile Centre which should be operational in 2007. The Juvenile Centre will house 12-17 year olds who have been given custodial sentences. In addition Juveniles on bail and/or awaiting court appearances or sentencing may be housed in the facility.

3. The Child Abduction Act which was recently passed by the House of Assembly has created the environment for the implementation of two International Conventions relating to the civil aspects of International Child Abduction and to the Recognition and enforcement of foreign custody decisions.

4. The Attorney General's Chambers has taken the lead in establishing a Family Law Reform Committee to adopt and harmonize relevant legislation proposed by the Organization of the Eastern Caribbean States. In addition the Ministry of Social Development has established a Child Protection Steering Committee with the mandate to develop an Action Plan with a view to ensuring that Anguilla is in full compliance with all the articles of the Convention.

5. The Department of Social Development is the government department with primary responsibility for providing services for families and children. In 2006 \$2,271,198 EC were allocated to this Department - an increase from \$1,103,807 in 2004 and \$1,681,832 in 2005. Anguilla also received DFID funding for a project to strengthen the capacity of the Department of Social Development.

6. In 2004 the Government of Anguilla established the Department of Sports, Youth and Culture. The Department is also responsible for serving Anguilla's children through the promotion of cultural development, recreational activities and youth development. The Department commenced operation with a budget of \$241,532 EC in 2004 which has been increased to \$1,274,844 in 2006.

7. Anguilla is committed to ensuring that there is cooperation with civil society in the preparation of this report and in the implementation of the Convention. A recent workshop on Convention reporting was attended by a wide cross section of civil society including Government departments, NGO's and members of the media who also provided coverage of the event.

## **CHAPTER II: DEFINITION OF THE CHILD**

8. The position remains as stated in the last report save that:

- The minimum age of criminal responsibility is now 10 years. It is also noted that a child over 10 years and under 14 years will not be held criminally responsible unless he/she had the capacity to know that he/she ought not to have done the act or make the omission complained of.
- While the standard age for marriage remains at 18 years, a person under the age of 18 years of age can enter matrimony with the consent of the requisite persons.

## **CHAPTER III: GENERAL PRINCIPLES**

9. Since the last Report the principal laws affecting children are still in effect but their names have been changed. Judicial corporal punishment has been abolished in Anguilla.

10. In addition to the provisions of the Employment of Women Young Persons and Children Act, RSA, c E55, which prohibits the employment of young persons (i.e. 15 to 17 years) and children (i.e. under 14 years) in industrial undertakings or at nights, the employment of children under 14 years is also prohibited by the Employment of Children (Restriction) Act, RSA, c E50. The Education Act, RSA c E25 also prohibits the employment of children of compulsory school age (i.e. 5 to 17 years) during the school year and children under 14 years, at all times.

11. With regards to the maintenance of children the Maintenance Orders (Collection) Act allows the court to make orders for the attachment of earnings to enforce a Maintenance Order.

12. In keeping with Article 3 of the Convention, a comprehensive set of standards along with Procedural Manuals were developed for Foster Care, Child Protection and Adoption by the NCH regional child welfare agency for implementation in Anguilla. The Department of Social Development is charged with the implementation and enforcement of these standards.

13. Article 12 highlights the need for children to have the opportunity to express their views. The Student Council at the Albenia Lake Hodge Comprehensive School and the National Youth Council are two bodies where views are expressed. Representatives from the Youth Council also have input into governmental plans and policies affecting children and youth. In addition, there is also a number of radio and TV programmes produced and broadcast for and by young people.

## **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

### ***Name and identity***

14. The Registration of Births, Deaths and Marriages Act, RSA provides that notice of the birth of the child must be submitted to the Registrar General within 30 days of the birth of the child regardless of whether the birth is live or still. In practice the hospital forwards the notice of birth to the registry of births. Usually a child's parents attend at the registry of births to register the birth of their child. If the parents are unmarried the father of the child who wishes to be acknowledged submits an affidavit with his particulars and his name is entered in the register. Currently, the percentage of births being registered is approximately 91%.

15. Section 80 (2) of the Anguilla Constitution also gives persons who meet the requirements stated in that section a status referred to as "Belonger" which gives that person all the rights of a British Overseas Territories Citizen (BOTC) (Anguilla) in Anguilla save and except the right to hold a BOTC Passport.

### ***Freedom of thought, conscience and religion***

16. There has been no change to the position as outlined in the last report, However it is pointed out that when children are brought before the Magistrate's Court as children in need of care and protection under section 4 of the Juvenile Act, RSA, c.J20, the Magistrate often speaks with the children in Chambers or in camera in an attempt to ascertain the children's version of the experience they have had at home which led to an application being made to the Court by the Department of Social Development, as well as the children's feelings about being possibly removed from their home and placed in foster care.

***Access to appropriate information***

17. The Department of Social Development continues to play a vital role in ensuring that children have their basic needs met through the process of law reform and also ensure that both parents have the responsibility for the upbringing and development of the child.

18. Anguilla has a fast growing Spanish speaking population. The mandates of this article are not being fully met in relation to these children. When dealing with the Spanish speaking clientele at the Department of Social Development, a translator is employed. Consideration is currently being given at the Departmental level to making printed material available to the public both in English and in Spanish.

***Right not to be subject to torture***

19. The legal position remains basically as stated in the last report. However, although a minor is a person under the age of 18 years, if a minor age 16 years or over is charged with an offence, that minor is tried as an adult and is basically treated as an adult in the criminal justice system. Additionally under the Juvenile Act, RSA, c.J120 if a minor under 16 years jointly commits an offence with an adult, that minor is also tried as an adult. Section 15 of the same Act provides that a minor under 16 years charged with an indictable offence is tried in an adult court. There are no facilities to cater for children who come into conflict with the Law in Anguilla. There is no legislation that speaks to the duties or role of key agencies to assist children in these circumstances. The Government is currently developing a Juvenile Detention Centre which will house youth between the ages of 12 and 17.

20. Presently child offenders are housed in Police detention cells to await bail or to await remand to prison. At present, there is one over crowded prison in Anguilla. The cells that are used to detain adults are also used to detain children. Children are kept in the same detention centre where they can interact with adult prisoners. Neither the police detention cells nor the prison is appropriate for children as the present conditions of both facilities have no direct means of separating children from adult offenders who may also be awaiting bail or remand. At present there are eight children (including 2 juveniles) in prison - 2 convicted, 5 awaiting trial and 1 mentally ill patient. During the day there are procedures in place to try as much as possible to keep the children away from the adult prison population by having them engaged in various activities and taking them to a different section of the prison.

21. Currently, there is no legal aid system in Anguilla. Children often appear before the court unrepresented by counsel. Presently, there is a draft Legal Aid Bill which when enacted, will make this service available to children charged with specified offences.

22. As regards the issue of corporal punishment, section 74 of the Education Act, RSA c E25 provides that degrading and injurious punishment shall not be administered in schools. It goes on to provide that corporal punishment may be administered by the Principal, or a teacher appointed by the Principal for that purpose, in conformity with guidelines issued by the Chief Education Officer.

## **CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

23. The recent Child Abduction and Custody Act brings into force the Hague Convention on the civil aspects of the International Child Abduction and the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children.

24. The Department of Social Development has embarked on several initiatives to ensure a safe environment for children. This department receives and investigates all cases of alleged child abuse. In cases where parents are deemed to be unfit or abusive, children are placed in Foster Care. A recent review of the entire foster care system has been undertaken. The aim of this review is to ascertain the effectiveness of the foster care system. The integration of the child into his/her birth family is an essential aspect of this initiative. At the end of 2005 there were 16 children in the custody of 12 foster carers.

25. In an effort to assist economically disadvantaged families and children, the Department of Social Development administers a public assistance scheme whereby needy families receive a monthly subvention. Single parent female headed households make up the majority of those persons receiving public assistance.

26. Legislative provision is made for parents in marital unions and divorcees equally to share in raising their children. While there may be court mandated child maintenance, there is no court mandated visitation right for unmarried fathers.

27. Previously, there were no restrictions on immigrants coming to Anguilla to work, bringing their children with them. Because of the high level of economic activity the need for imported labour has grown. The social infrastructure can no longer effectively cope with the increased social burden and as a consequence, restrictions have to be imposed on workers bringing their families with them.

28. Domestic violence continues to be a problem in Anguilla. The Department of Social Development has been working with the Family Hope Network, a local NGO to prevent domestic violence and combat its negative effects.

## CHAPTER VI: BASIC HEALTH AND WELFARE

29. Each of Anguilla's health districts has a health centre which provides primary health care within defined boundaries. Health clinics are staffed with a public health nurse, nurse midwives, community health aides, and clinic aides who provide basic core services, including maternal and child health, family planning, immunization, nutrition advice, care of the elderly, management of chronic diseases, and health education. Secondary Health Care is delivered at the hospital, which is a 36-bed facility. Anguilla offers no tertiary level care but has established linkages to other facilities regionally and internationally to provide these services.

30. The Health Authority of Anguilla through the Ministry of Health offers several free services that benefit children. Free prenatal care is offered to all pregnant women. All children are immunised free of charge and are provided with regular health assessments and dental care all free of charge. In an effort to further increase access to health services, the Government of Anguilla plans to introduce a national health fund beginning in 2007 which will provide a basis package to health services to legal residents of Anguilla.

31. Two Health educators deliver education programmes that focus on health promotion and wellness and emphasise behaviour modification and lifestyle changes. Interventions target primary and secondary school children, young adults and community groups. The Health Promotion Unit also provides young people with information on sexual and reproductive health as does the Anguilla Family Planning Association.

32. The National AIDS Programme does extensive outreach to young people as part of its activities under its national strategic plan. The programme has sponsored numerous youth meetings, conferences, and workshops aimed at engaging youth around HIV issues. Since 1988 there have been 30 documented cases of HIV infection. Currently there are no persons under the age of 20 years who have been confirmed infected. Anguilla has a comprehensive Prevention of Mother to Child Transmission Policy which is currently being implemented.

33. Nearly 100% of families living in Anguilla have access to clean water although not all households have piped water. Child Health Clinics are available at all five health centres. Services include monitoring growth and development as well as the nutritional status of children under 5 years of age. 100% immunization coverage was achieved for the target population of children 0-11 months.

34. During 2000-2003 there were no deaths in the 5-9 age group. There is an effective and successful School Immunisation Programme. The School Health Service also provides physical examinations, dental, hearing and vision screening for children 5-9 years of age. Family Planning Services are available to adolescents with parental permission and Family Life Education is available in the schools.



## CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES

35. Primary and secondary education is universal and compulsory. There are eight primary schools (six government and two private) and one government secondary school on the island. The secondary school is comprehensive and provides free education for all students up to 17 years. There are 97 secondary level teachers and 71 primary. There are 1439 primary pupils and 1115 secondary.

36. In keeping with the policy of providing equal access to educational opportunity, a range of provision is made for students with special educational needs. This includes early intervention in Literacy through Reading Recovery and Remedial Reading and Multi Professional Support.

37. Teenage mothers are able to complete their education and are not discriminated against in gaining access to education. A few of them however choose not to return to school.

38. At present there are limited facilities for the provision of higher education in Anguilla. Many students continue to go to the University of the West Indies, England, North America and Canada. The Anguilla Government has increased its scholarship scheme to enable more students to receive financial assistance. In collaboration with the University of the West Indies, a Certificate in Education Course is offered locally for teachers of both primary and secondary levels.

39. Technical and Vocational subjects are offered at the Comprehensive School. The Government is committed to the establishment of a Community College. A Master plan has been drafted and a Community College Development Unit has been established to spearhead the implementation of this plan. Post Secondary Studies in Technical and Vocational Education will be offered at the Community College.

40. Truancy problems do exist, but mainly at the secondary level. The Education Act provides guidelines for dealing with this issue. Education Welfare Officers have been employed to monitor attendance in schools and deal with incidents of truancy. The Department of Education provides meals and basic material and supplies for a number of students who have been identified as being in need of financial support. This is done as a means of encouraging these students to attend school regularly.

41. The Education system is also affected by an increase in incidents of misbehaviour including acts of violence as well as drug use among students at the secondary level. A Pupil referral Unit (PRU) has been established in October 2005 to cater for the needs of students with severe behavioural problems. Presently there are seven boys in attendance.

***Leisure, recreational and cultural activities***

42. Music and Sports/Physical Education are included in the curriculum at both the primary and secondary levels. Students participate in regular school concerts and sporting events and competitions. In schools a number of clubs have also been introduced and students are encouraged to join depending on their interest.

**CHAPTER VIII: SPECIAL PROTECTION MEASURES**

***Children in conflict with the law***

43. Generally children in conflict with the law are dealt with under the Juvenile Act if they are less than 16 years old. They are otherwise subjected to the same criminal justice system as adults. The Employment of children is prohibited by the Employment of Women, Young Persons and Children Act, RSA, c E55, the Employment of Children (Restriction) Act, RSA, c E150 and the Education Act, RSA c E25. The provisions of the Drugs (Prevention of Misuse) Act, RSA, c D45 and the Drugs Trafficking Offences Act, RSA, c D50 seek to prevent drug related activities such as possession, importation and sale of drugs. During the second half of 2005, 17 Juveniles were arrested by the police.

44. The Criminal Code, RSA, c C140 deals in detail with sexual offences against minors including but not limited to, unlawful sexual intercourse with minors, prostitution of minors, abduction of minors, permitting defilement of minors on premises, sexual intercourse with dependent children, sexual harassment of minors and detaining minor with intent to have sexual intercourse. The Code makes it mandatory for certain persons, including teachers and doctors, to report cases of suspected sexual abuse of minors.

45. In 2005 there were nineteen juveniles remanded into prison. Five were convicted of a criminal offence and spent an average length of time in custody of two months. In 2006 twelve juveniles were remanded, five were convicted of a criminal offence and spent an average time of four months in custody.

**BERMUDA**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

***Measures to harmonise laws and policies with the convention***

1. It was previously reported that many of the laws were being updated in order to reflect the current philosophy and harmonize with the Convention. The Children Act 1998 is intended to be an umbrella act for all legislation related to children.

2. The Children Amendment Act 2002 aims to abolish the concept of illegitimacy as it applies to children and ensure that all have equal rights to the care and support of both parents by repelling the Illegitimacy Act 1933 and the Affiliation Act 1976. This new legislation endeavours to remove gender discrimination from the law regarding parental rights and responsibilities. The law also recognizes overseas determination of parentage for all children.

3. Prospective parents have experienced difficulty adopting children in Bermuda because of outdated regulations. The Adoption Act 2007 legislation has been passed and revisions to the Rules and Regulations are in process and will be placed before the Legislature in the near future.

4. Bermuda's first Child Abuse Registry is operational. The aim of this registry is to establish a child abuse register that will provide a resource for protecting children from individuals convicted of child abuse having the ability to work with children. Protocols have been established, and resources identified to inform any potential employers with this information.

5. In June 2003, the Government tabled legislation to help improve public education by recruiting parents in the effort. The legislation gives the Minister of Education and Development powers to make rules affecting parents of students. This will mean that parents/guardians of students who do not comply with the identified rules and regulations of schools may be held responsible for their children's actions. The Minister will be empowered to enact penalties for breaching the rules. This regulation aims to provide guidance for those few parents/guardians who, through no fault of their own, might not know what they need to do in order to be involved in the school life of their children. "Courts may also order parenting classes or counselling programmes for parents not complying with the rules".

6. The Bermuda Health Council Act 2004 allowed for the creation of a Health Council to oversee and direct health care in Bermuda. The Council is required to ensure that all residents of Bermuda have appropriate access to optimal, quality healthcare while exercising stewardship of Bermuda's resources. The Council will assist in coordinating, regulating and providing strategic direction for healthcare in Bermuda.

7. The registering of Day Care Providers is provided for in the Children Act 1998. The Day Care Centre Regulations 2001 under the Children Act make provision for the licensing of the premises and certification of the persons in charge and stipulates the child/adult ratio in day care situations to ensure the safety of children and that they have adequate, undivided attention from a responsible adult.

## **CHAPTER II: DEFINITION OF THE CHILD**

8. The Age of Majority Act 2001 lowered Bermuda's official age of majority from 21 to 18. The change arose out of demand from the private sector, public sector realities and attempts to meet the terms of the Convention. Notable exceptions within the new legislation are that the age for marrying without parental consent and for sitting as an MP or Senator remains fixed at 21 years.

9. The age of criminal responsibility in Bermuda is currently 8 years old. The Bermuda Government has noted the concern expressed by the Committee with regards to the low legal age of criminal responsibility and is moving towards a resolution of this issue. The review of the Young Offenders Act (1950) has been completed. In June 2006, recommendations were made to reform the laws pertaining to the handling of young offenders, including the age of criminal responsibility.

10. Effective April 1 2006 smoking in public places has been banned in Bermuda. The new legislation will make it an offence to smoke in bars, restaurants hospitals, hotels, offices, Government buildings and schools across the Island. The new law also bans cigarette vending machines along with tobacco advertising at sporting events and makes it illegal to sell cigarettes to under 18 year olds.

## **CHAPTER III: GENERAL PRINCIPLES**

### ***Non-discrimination***

11. The Human Rights Act (1981) protects the rights and freedoms of all human beings lawfully residing in Bermuda's community. As part of the Social Agenda the Government reviewed and amended the Criminal Code (1907) as it relates to sexual assault and related offences. In particular sections were changed as they relate to young people and women. The sentences were greatly increased in some instances. The Human Rights Commission has developed a Human Rights Syllabus that is now available in the two public Senior Secondary Schools in Bermuda.

***Best interests of the child***

12. Enshrined in legislation is the principle that consideration must be given in all deliberations “to the best interest of the child.”

13. The Matrimonial Proceedings Act 1974 is being reviewed as a part of Government’s initiative to review all legislation regarding divorce, separation, maintenance and child support.

14. The Affiliation Act (1976) formerly the Illegitimate Children’s Act has been repealed and replaced by the Children Amendment Act (2002). Section 2 [2] of the amendment act provides for the abolition of the distinction between legitimate and illegitimate children. This amendment puts Bermuda in the spirit of the Convention as regards equal treatment for all children regardless of their birth status.

15. In 2005 the numbers of screenings done by the Child Development Programme (CDP) decreased significantly due to staffing issues. However, during this time CDP performed 420 screenings on two year old children.

***Respect for the views of the child***

16. The Ministry of Education and Development made amendments to the legislation entitled Education Rules Part VI of the Education Rules 2006 that reflects the philosophy of the Convention in that Section 23 (3) states that “every child shall have a right to be heard before any penalty is imposed for an infraction, and at his request, my have a right, if the principal considers the infraction as a major one, to be accompanied by another person during the hearing.”

**CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

***Name and nationality***

17. Every child has the right to a name and nationality. Under the Immigration and Protection Act 1956 when a child is born in Bermuda to a non-Bermudian parent he/she does not automatically acquire Bermuda status. The nationality of a child is also dependent on the nationality of the non-Bermudian parent. Persons with Bermuda status can have a British Commonwealth Nationality (e.g. one can be a Jamaican but have Bermudian status as per the Immigration and Protection Act (1956).

18. The practice in Bermuda is that as soon as the Registrar General receives a notice in respect of a child born alive he/or she sends a form of notice together with an addressed and stamped or franked cover to a parent or the person who has custody of a child. Where a person receives a form of notice as provided by the Registrar General he/she must complete and sign

the form and return it within sixty days of the receipt thereof to the Registrar General at his or her office.

***Protection of privacy***

19. Under Bermuda's Constitution, children have the same rights as adults. The Bermuda Constitution Order of 1968 has principles included under Section 1 of the Protection of Fundamental Rights and Freedoms of the Individual. These are the same fundamental principles as laid out in the Declaration of Human Rights.

***Access to Appropriate Information***

20. Bermuda is expected to introduce Public Access to Information legislation within the next year. Currently it is the practice that any information that is deemed sensitive or maybe harmful to a child is not released to the general public. In the case of viewing, the Film Control Act (1959) has been amended to focus on the ratings for films that are shown in public in the presence of children.

21. Children in Bermuda have regular access to materials aimed at promoting their overall well-being and development. Information is regularly disseminated through the daily newspaper and includes supplements such as the Young Observer and Youth Net. The activities and accomplishment of young people are usually highlighted in these supplements.

22. The Centre is a community facility that provides programmes that are specifically geared toward Bermuda's youth; sport is included in the Centre's activities. Additionally, there are various local authors who write and disseminate children's books and other materials.

***Judicial corporal punishment***

23. While Judicial Corporal Punishment has been abolished in Bermuda corporal punishment continues to be legally administered in the schools. This practice has been reinforced by the legislation of the 2006 School Rules – Section 24 (1), (2), (3) and (4).

**CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

***Bermuda Family Council***

24. In 1988 the Task Force on the Status of Women was renamed the Family Council. The Council was established to serve as an advisory board to the Minister of Health and Family Services. It was also established to act as a facilitator to new initiative concerning the Bermudian family.

25. The Family Council is mandated to investigate the institutions supporting all areas of family life from childhood to seniors. It is also mandated to propose recommendations that are solution oriented for specific areas of concern with the objective to strengthen the family.

26. The Family Council is exploring tangible initiatives that will impact positively on families such mediation for family issues as they relate to custody, maintenance payments and visitation and have embarked on a new initiative of shared parenting education.

***Support to parents***

27. The Children Act 1998 protects children from harm to promote the integrity of the family and to ensure the welfare of children. Because of its legislative mandate the Ministry of Health has taken the lead to provide the structure, resources and training to strengthen families and therefore safeguarding the welfare of children.

28. In 2004, the Ministry of Health and Family Services in an inter-ministry collaboration established a programme entitled Cross Ministry Initiative Team (CMIT). The programme involves the departments of Child and Family Services, Court Services, Financial Assistance and the Bermuda Housing Corporation. This initiative continues to embrace high risk families that are clients of two or more Government service agencies, and to provide a 'safety net'. As a result of the intensive intervention to these families several families have become independent of Government support and are contributing members of the community.

***Recovery of Maintenance for the Child***

29. In Bermuda there are three Acts that guide the recovery of maintenance payments. They are the Maintenance Orders (Reciprocal Enforcement) Act 1974, the Affiliation Act 1976 and the Matrimonial Proceedings Magistrates' Courts Act 1974. Since the last report some changes can be seen.

30. The Affiliation Act 1976, a statute that governed policy and practices related to those children who were born to parents who were unwed, has been repealed and replaced by the Children Amendment Act 2000. The new modifications resulted, among other issues, in the removal of the word illegitimate when referring to the child of unwed parents.

31. A multi-disciplinary task force was also established in order to review the issues associated with non-payment. In July 2005 there were 4,363 active cases being administered by the Family Support Office. The collection rate was 52% in 2005.

***Children deprived of a family environment***

32. We can report new legislation regarding adoptions. The Adoption of Children Act 2006 has been passed. The legislation is now current with international best practice and incorporates the philosophy and principles that are enshrined in the Hague Convention of May 1993 on Protection of Children and Cooperation in respect of Inter-country Adoption.

***Police and child protection***

33. Between 1999 and 2000 the Juvenile Domestic Crime Unit (JDCU) was established within auspices of the Bermuda Police Service. The focus of this department is to investigate all instances of child abuse, sexual to physical and to investigate selected juvenile delinquency. The JDCU investigates all domestic violence related matters. The JDCU is currently involved with a committee that is seeking to develop legislation that protects children online. It is anticipated that this legislation will be tabled in the House of Assembly in early 2007.

***Transition programme for vulnerable children***

34. Residential Treatment Services (RTS), a division within the Department of Child and Family Services introduced a Transition Programme to assist in-care adolescents to successfully return to the community. The average stay in care was reported to have been fifteen months. Those adolescents with more severe behavioural problems and who were in overseas placements required longer periods of stay. The average stay for an adolescent overseas was two years. RTS maintained regular contact with its overseas clients and their placement is reviewed every six months. As a part of the treatment process a family member would visit their family member every six months. Adolescents overseas receive a wide array of psychiatric and psychological services at an annually cost of \$2 million.

In efforts of continued quality improvement, Residential Treatment Services has made application for accreditation with the Council on Accreditation, it is anticipated that RTS will have received accreditation at the next reporting period.

**CHAPTER VI: BASIC HEALTH AND WELFARE**

***Disabled children***

35. The Bermuda Government aims to improve the quality of life and inclusivity for all of its physically challenged citizens. An early evaluation of the needs of this sector suggested that a “single point of entry” vehicle to the helping services was a priority. To this end, the National Office for the Seniors and the Physically Challenged (NOSPC) was established. The



function of the (NOSPC) is to ensure that the Government Services are readily available and accessible to this vulnerable sector of our community.

### ***Health and health services***

36. The Government continues to recognize and endeavours to ensure the right of the child to enjoy the highest attainable standard of health. The Ministry of Health and Family Services strives to improve access to high quality facilities for treatment and rehabilitation. Infant Mortality Rates in Bermuda remain low, with 11 cases reported in 2005. The main cause of death is attributed to perinatal conditions.

37. The Department of Health within the Ministry of Health and Family Services seeks to provide the most effective way to prevent transmission of HIV/AIDS infection and to help people who are infected to identify the support, strengths and resources they need to live with the diagnosis. A task force under the direction of the Chief Medical Officer is responsible for the development and implementation of strategic planning for HIV/AIDS prevention, control and management in Bermuda. Education programmes are provided in all schools for teachers and students. The right of both child and family to confidentiality is recognized and protocols are in place for prevention of infection – ‘Universal Precautions’ for blood spills, and injuries to students.

### ***Immunisation***

38. Bermuda’s immunization programme administers vaccines for childhood illnesses and other communicable diseases through the Government clinics and school system. In 2005 Bermuda recorded a 90% level of immunisation coverage of children based on the data available, including both private sector and Government administered immunisations.

### ***Social security and child care services and facilities***

39. The Children Act 1998 authorizes the Minister of Social Rehabilitation to set regulations guiding child care in Bermuda. The Bermuda Government provides an array of programmes and services aimed at ensuring the provision of quality child care for children in Bermuda under five years of age.

40. The Happy Valley Day Care Centre remains as the only Government child care facility. The facility caters to approximately forty children. Proposals are currently in place to establish additional Government day care centres. In addition to its other services, Happy Valley Day Care Centre has in place a programme that is designed to engage parents’ participation in their children’s education. Parenting classes and peer support programme are now also a part of the services offered at the Happy Valley Day Care Centre.

### ***The Child Development Programme***

41. The Department of Financial Assistance offers assistance that supports children and their families. The Department provides financial awards to

adults on behalf of children in the areas of rent subsidies; food allowance; transportation, clothing and medical needs. The Department also provides for the cost of nursery and day care services when indicated.

42. The Department of Financial Assistance continues to support individuals and their families. This is facilitated by the Financial Assistance Act 2001. In addition to this Act, the Financial Assistance Regulations 2004 and the Financial Assistance Amendment (No. 2) Regulations 2004 have been established. The introduction of the Regulations now provides for:

- A universal criteria for eligibility for assistance
- A more timely determination of assistance and easier access to service
- Simplified application and assessment procedure
- A single case management system and
- More equitable caseload for workers

43. A person must be eighteen years of age or older and be the head of the household in order to apply for Financial Assistance. Children under eighteen and found to be in need would be referred to the Department of Child and Family Services for assistance.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### ***Education, including vocational training and guidance***

44. Thirty six persons (teachers, Education Officers, Ministry staff, the Bermuda Union of Teachers, The Association of School Principals, The Board of Education, The Board of Governors of CedarBridge Academy, the business community and 2 senior school students) met in August 2002 to devise a National Strategic Vision for Education. The group established that the critical issue was to improve student achievement and establish the Government Schools as the first choice for education.

45. The Ministry of Education and Development created a National Strategic approach to teaching Literacy at the primary school level. This initiative was developed with specific targets that were linked to planning, monitoring and evaluation, and therefore setting clear bench-marked expectations.

46. One of the programming highlights was the incorporation of a designated period of 90 minutes each day, to be known as 'Literacy Time'. The Ministry employed a Literacy Strategy Manager and Literacy Coordinators for two years to train teachers and administrators in best practices. This initiative continued at the school sites after its initial 2-year pilot under Ministry leadership.

***Bermuda Technology Initiative Collaborative (B-TEC)***

47. Since its inception two years in 2003, B-TEC's aim is to open the gateway to a world of information and communications for Bermuda's public school students, their teachers, parents and the community. B-TEC aims to incorporate a full technology plan which exposes students to world class education in technology, have adequate resourcing of all levels of the system, expand teacher technology skills and increase opportunities for students.

48. The curriculum is developed in collaboration with Stanford University and the University of Virginia. The certification available through the B-TEC programme is the ISTE- International Society for Technology Education. An initial investment in the programme as of 2004 was approximately \$9.45 million, spent on site licenses, new science labs, LCD projectors, video conferencing equipment, digital microscopes curriculum development, training and in-service consultation

***Education reform – Catch the Vision***

49. In September 2006, the Education Ministry held a mass meeting of everyone involved in education to "Catch the Vision" of an improved public education system. The one-day summit, aimed at galvanizing all those working in Bermuda's public education system to engage in constructing a first class public education. The conference is part of a three-year strategy being put together by the Ministry. Catch the Vision will be followed by Share the Vision in 2007 and Live the Vision in 2008. Among the topics to be examined are: restoring confidence in public education, respecting diversity, intentional expectations for the Ministry of Education, relationship building and effective communication.

***Aims of education***

50. The Educators' Council Act 2002 was introduced to provide for the licensing of principals, teachers and paraprofessionals through the establishment of an independent Council, which will create and maintain a register of licensed teachers.

51. The National Training Board Amendment Act 2002 provides for a revised administrative structure, which will allow the National Training Board (NTB) to increase its compliment of staff and senior officers, thus better equipping it to respond to the needs of Bermudians. To respond to the Government's Social Agenda Policy, the NTB has identified several new initiatives. Eleven new programmes have been created; including a Summer Youth Development Project.

52. Collaboration between the NTB and the Department of Court Services has resulted in a programme entitled "Just in Time". Launched April 2005, the purpose of the programmes is to offer alternative programmes to offenders to promote self-sufficiency, skill-building and employability. Participants will

participate in the General Education Diploma (GED) and other technical vocational training.

53. The NTB has achieved significant growth in all categories of training. The enrolment in apprenticeship programmes average one hundred apprentices yearly and as a result the NTB has developed two national training facilities and a third facility at the Bermuda College is pending.

### ***Bermuda College***

54. Since the report of 2000, the Bermuda College has formed closer links with main feeder public secondary schools participating in appropriate school based committees and events i.e. Coordination of curriculum materials in mathematics and English Language, Arts and Senior School Mathematics Teachers professional development. This institution has increased the number of articulation agreements with overseas, four year universities to enable Bermuda College graduates more options to transfer their Associate Degree credits to highly ranked North American, Caribbean and UK Institutions.

55. The College has now developed meaningful, relevant and appropriate, skills training programmes in Technology in collaboration with the National Training Board. The College has also strengthened its services to the student by implementing mandatory, and advisory tutoring by individual faculty members. It has begun an initiative that focuses on stakeholder needs by the use business and industry Surveys. Moreover it has developed an internal resource centre which provides support for professional development of its teaching staff.

### ***The Bermuda Careers Centre***

56. The Bermuda Careers Centre (BCC) provides current career and education related information to students, parents, counsellors, and jobseekers that will enable them to determine potential career paths, to explore career and educational goals and to take full advantage of employment opportunities. The centre's aim is to ensure that all employment sectors in the community have a pool of well-educated and trained young Bermudians to employ. Services provided by the BCC include career development and planning, interview coaching and employment placement.

### ***Further education policies***

57. The Ministry's further education policies continue to grow as a wide range of programmes and funding continue to be offered to Bermuda's youth in an effort to help prepare them to become productive and contributing citizens. For academic year 2006 Awards for further education have increased from \$5,000 each to \$7,000 annually. Also funding for tertiary level education has been increased in value from \$12,500 each to \$25,000.00.

### ***Cultural activities***

58. The Government of Bermuda has embarked on a comprehensive initiative that will allow children to develop respect for the national values of their country and to enhance their cultural identity. Bermuda took the stage at the 35th Annual Smithsonian Folk life Festival in June, 2001. The title of Bermuda's submission to this event, staged at the National Mall in Washington, was called "Bermuda Connections".

59. For those Bermudians who could not attend the event, in April 2002, the festival was restaged in Bermuda as part of the Annual Agricultural Exhibition in the Bermuda Botanical Gardens. This coincided with the Bermuda Living Traditions initiative, which is aimed at preserving, reclaiming and reinvigorating local heritage and traditions. An education kit was compiled and distributed to every classroom while the work of 20 researchers, who collected archive materials on everything from boat building, cricket and food, will be put into a Folk life archive.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

### ***Children involved with the system of administration of juvenile justice***

60. A multi-disciplinary legislative review subcommittee has been formed to identify pertinent issues related to youth criminal justice and to make recommendations to reform the laws as related to young offenders. Bermuda has also established a National Strategy Committee to counter youth offending. However, in order to deal effectively with children and youth, it is believed that it is essential to have comprehensive assessment and case conferencing. Such programmes as juvenile and family treatment system, community service orders, anger and emotional management, education, vocational and other skill building programmes are envisioned. These interventions will be intended to address issues of offending and the related triggers. Moreover, these measures will assist in preventing or reducing the occurrences of offending or re-offending by children. These programmes are not limited to the child or young person but also to their family and significant others.

### ***Economic exploitation of children, including child labour***

61. The Government has taken some steps between the two reporting periods to assess the status of children with respect to the child labour practices within the country. State agencies do recognize the need to protect children from economic exploitation and performing any work that is likely to be hazardous. Moreover, the Government intends to protect children from any work that will interfere with a child's education and that which may be harmful to the child's physical, mental, spiritual, moral or social development.

62. A report was produced in 2004 which examined the status of youth employment in Bermuda as to legislative compliance with respect to International Labour Organization stipulations. This report made recommendations to ensure that employment of young people is consistent with youth development.

***Drug abuse***

63. The Ministry of Social Rehabilitation, through the Department for National Drug Control (DNDC) (formerly the National Drug Commission (NDC)), is committed to the development of healthy communities, free from the negative consequences of uncontrolled substance use, substance abuse and the illicit trafficking of narcotics.

64. In addition, the Bermuda Youth Counselling Service (BYCS) provides treatment to adolescents who are experimenting with tobacco, alcohol and or other drugs, and works closely with schools and other community members that are involved with a similar client base structure.

65. The 2003 school survey that looked at reported consumption patterns among Bermuda's school students showed that lifetime prevalence-of-use rates for alcohol was 58.0%. The prevalence of cigarette use was 25.7%, marijuana 19.7%, inhalants 8.2% and smokeless tobacco 2.5%. These figures represent a downward trend of current use for alcohol, tobacco and marijuana compared to 2000 survey figures.

**BRITISH VIRGIN ISLANDS**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. The British Virgin Islands has revised some legislations and implemented a range of new legislation specific to children including:

- The Children and Young Persons Act, 2005
- The Youth Courts Act, 2005
- Criminal Justice (Alternative Sentencing) Act, 2005
- The Probation of Offenders (Amendment) Act, 2005
- The Education Act, 2005; and
- The Criminal Code (Amendment) Act 2007

2. In 2001 Ministry of Health and Welfare (presently the Ministry of Health and Social Development) established an Intersectoral Social Services Committee (ISSC) which coordinated matters relating to children. The work of the ISSC included the implementation of the Convention. The ISSC was comprised of personnel from the departments of Government involved with work relating to children. Due to personnel changes in some agencies, the work of the ISSC fell dormant. However, the Ministry of Health and Social Development has made plans to re-start and re-constitute the ISSC or like committee to regain momentum on the implementation of the Convention. Part of the work of the new ISSC would include the design, implementation and regulation of a National Plan of Action for Children.

3. The National Child Protection Action Plan sponsored by the UK Government and Department for International Development (DFID) was extended to all the Overseas Territories in 2004. Towards this end, the Ministry of Health and Social Development through the Social Development Department coordinated a workshop for the development a National Child Protection Action Plan. Non-governmental organizations as well as key Government personnel were involved in the Workshop.

4. In 1999, the Government established a Human Rights Reporting Coordinating Committee (HRRCC). Part of the HRRCC's mandate was to monitor the implementation the Convention within national affairs and to advise the Government as to areas of non-compliance. The HRRCC submitted its compliance report in the year 2000 and made various recommendations toward fuller compliance. Due to various shifts in personnel, the work of the HRRCC has fallen dormant. However, plans are presently being made to re-constitute the membership of the HRRCC so that its work may continue.

5. The Government of the British Virgin Islands continues to take / measures to implement and support various child-focused programs. Over the years, the Social Development Department and the HRRCC used the print and audio media and various public campaigns to educated persons at all

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levels of the community about the Convention, the rights of children and about issues related to children including abuse and violence. In addition, the Department of Youth Affairs and Sports was established in April 2004 to advance the potential in children and young persons.

6. The report of the British Virgin Islands was prepared in consultation with the various Government Departments responsible for work related to children. The draft report was then made public in an effort to receive comments from all persons including civil society organisations, non-governmental organisations, children and youth groups.

### CHAPTER II: DEFINITION OF THE CHILD

7. Under domestic laws, a child is a person under the age of 16 and a young person is a person who has attained the age of 16 years and is under the age of 18 years.

8. The Criminal Code, 1997 of the Virgin Islands is explicit with regard to the immateriality of the consent of a girl under the age of 16 where a man is charged with unlawful intercourse with the girl<sup>1</sup>. Section 125 of the Criminal Code of the Virgin Islands, 1997 speaks of the general sexual offence of indecency with a child of any gender.

9. The Children and Young Persons Act, 2005 repealed the Juvenile Act, Cap 37 of the Laws of the Virgin Islands, Revised Edition, 1991.

10. In addition, the Education Act, 1994 repealed the Education Ordinance, Cap 36 of the Laws of the Virgin Islands, Revised Edition, 1991. Under the Education Act, 1994, the compulsory school age in the British Virgin Islands is from 5 – 16 years of age.

### CHAPTER III: GENERAL PRINCIPLES

11. The deaths of children are registered, and, where appropriate, investigated and reported. In the period 2003-2004, there were 2 deaths of young children as a result of result of crime and domestic violence. In both cases the perpetrators of the crimes were punished in accordance with the law are presently imprisoned.

12. There are a large number of child and youth organizations or associations. An Appendix to the full report of the British Virgin Islands attached to this report exhibits a sample list of such organizations generated from the Department of Youth Affairs and Sports.

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<sup>1</sup> Section 118 (2) and 119 of the Criminal Code, 1997



#### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

13. A growing number of local radio programmes are aimed specifically at children. For example on Saturday mornings, a call in talk show entitled “Teen Talk” on radio ZBVI features teen discussions of various community issues. Also, on Saturday afternoons on Radio ZKING “Fun with Aunty P” features a call in show where children can answer questions, share jokes, seek prayers or pray, share poems, scriptures and the like.

14. In addition to the district libraries including those on the Sister Islands (Jost Van Dyke, Virgin Gorda and Anegada), there is one mobile library which visits all public schools and some private schools on a schedule. Most public and private schools and the public libraries have a computer lab or other accesses by children to computers.

#### **CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

15. The changes to the legislative framework of the British Virgin Islands set out elsewhere in this report have strengthened the framework for supporting children in a family or alternative care environment.

#### **CHAPTER VI: BASIC HEALTH AND WELFARE**

16. The British Virgin Islands maintain a HIV/AIDS preventative and educational program coordinated by the Ministry of Health and Social development. The program has encouraged the HIV testing of all pregnant women. The program also conducts an Annual Youth Summit on HIV/AIDS in collaboration with the Department of Youth Affairs and Sports and the Ministry of Education and Culture.

17. All school age children receive free medical care at various public health facilities. Comprehensive immunization in order to enter school is mandated by the Education Act. Coverage under the Expanded Programme for Immunization is high. In the less than one (1) year age group coverage for BCG, Polio, DPT and MMR was 100% in 2005.

18. The Eslyn Henley School for the disabled/challenged continues to function in the British Virgin Islands under the Ministry of Education and Youth Affairs. Another NGO, the Rotary Club, has adopted the school and it provides ad hoc building or plays ground supplies. First Caribbean International Bank has donated a computer for the school’s computer lab. At present, the school caters for 14 children aged 6-18. The children have varied diagnosis including autism, Down’s syndrome, speech disabilities, and other mental and physical disabilities, and thus a varied a number of special educational needs.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

19. In 2004, the British Virgin Islands revised the Education Act. The process included public consultation. The Education Act, 2004 is attached at the Appendix. The Act details the aims of the education system in terms of the following:

- the establishment of a varied, relevant and comprehensive educational system;
- the promotion of the education of the people of the Virgin Islands by the establishment of institutions for the purpose of fostering the spiritual, emotional, cultural, moral, intellectual, physical, social and economic development of the community;
- the framing of an educational policy designed to give effect to the purposes of the Act;
- the effective execution of the educational policy of the Government; and
- the establishment of a coordinated educational system organized in accordance with the Act.

20. The Education Act, 2004 also regulates technical and vocational training and guidance. In 2004, the British Virgin Islands established the Technical and Vocational Institute that provide an alternative method of education to students.

21. In 2006, the Government established a Department of Culture separate and apart from the Department of Education. There are many cultural activities organised by the government for children through out the Territory. For example, November 10 2006 was celebrated as Culture day in most schools. Children had many opportunities to learn about various cultures.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

22. The Children and Young Persons Act 2005 repealed the Juvenile Act, Cap 37 of the Laws of the Virgin Islands, Revised Edition, 1991. It contains new and modern provisions that complement the Criminal Justice (Alternative Sentencing) Act 2005 by taking into account modern day realities of children and young persons within the criminal justice system. The Act therefore essentially provides substantive and procedural measures and protection for children and young persons when they are either perpetrators or victims of crime.

23. The Children and Young Persons Act 2005 makes provision for the prevention of cruelty to and protection of children and young persons. For example, section 4 of the Act places an obligation on various persons who come into contact with children in the course of carrying out their profession or duties, to report any case of abuse, or suspected abuse, of any such child to the police. Similarly, section 6 empowers a police officer or an authorised

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person to bring before a youth court a child or young person who is in need of care, supervision or protection. The Children and Young Persons Act 2005 also deals with proceedings in the Youth Court and essentially covers areas like the powers of the youth court, the methods of dealing with the young offender and provisions relating to the committal of the young offender to the care of a fit and proper person.

24. Provisions preliminary to the trial of the child or young person are dealt with in Part III of The Children and Young Persons Act 2005. Under this Part matters relating to the separation in police stations of children and young persons from older offenders, bail, trial of a child or young person jointly charged with an older offender, and indictable offences in respect of the child or young person are considered. Parts IV and V of the Act deal with legal provisions and evidence and procedure, respectively, as they relate to children and young persons.

25. The Youth Courts Act 2005 repealed the Juvenile Act, Cap 37 of the Laws of the Virgin Islands, revised edition 1991. The Youth Courts Act 2005 replaces the Juvenile Courts Act, Cap 38 of the laws of the Virgin Islands, Revised edition, 1991. Though there are some significant changes and innovations in the new legislation, the Act, by and large, retains the substantive provisions of the Juvenile Courts Act.

26. The Act is designed to complement the Criminal Justice (Alternative Sentencing) Act 2005 that makes far-reaching provisions in the court's treatment of children and young persons who find themselves in conflict with the criminal justice system. A minor departure from the current law is that the Magistrate will be empowered to select at least one assessor to sit with him and to advise him on the appropriateness of any sentence that may be imposed on a child or young person. Assessors will be chosen from a panel which may include social workers, members of the religious community, education psychologists, school guidance counselors or teachers. The panel of assessors will be nominated by Executive Council. The Act also makes provision for the parents of the child or young person arrested to be notified of the charge and the time and place when the child or young person is to be brought before the court. The parents are required to attend the court and remain in attendance during the proceedings unless the court excuses them. The provision further provides a power of arrest against the parents for a breach of this provision.

27. Further, the Youth Courts Act 2005 provides for a child or young person who is charged with a summary offence to be tried in a youth court (unless he is charged jointly with a person aged eighteen years or over) and section 5 provides for the general public to be excluded from the sittings of a youth court. Section 6 provides for restrictions on the publication and disclosure of the identity of children and young persons who are involved in proceedings before a youth court.

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28. The Criminal Justice (Alternative Sentencing) Act 2005 widens the sentencing options available to the courts in dealing with not only children and young persons but with persons aged eighteen years and over. More significantly the Act seeks, through the definition of terms, to focus more on the rehabilitation and reintegration of the offender into society while at the same time holding the offender accountable for his actions.

29. Part I of the Act deals with, among other things, sentencing principles by which the court is guided in determining sentence for an offence, and restrictions on prosecutions. Matters pertaining to the various sentencing options available to the courts in respect of children and young offenders are dealt with under Part II. The establishment by Executive Council of the relevant centers, such as attendance centers, youth custody and training centers and drug rehabilitation and after-care centers, is provided for in section 15 of the Act.

30. Part III of the Act deals with the courts' general sentencing powers in respect of children and young persons. Among other things, this Part deals with short sentences, fines, probation, curfew orders, community service orders and combination orders. Part IV deals with drug rehabilitation and after-care orders while Part V covers the courts' special sentencing powers. Under Part V, a court may, among other things, impose a penalty without recording a conviction, reduce a prescribed minimum penalty or substitute a penalty in some instances. Further, a court may suspend a sentence of youth custody and training or imprisonment and impose a bond requirement in appropriate circumstances. A significant development under Part V is the courts' power to make a parenting order in respect of a person who is a parent or guardian of a child or young person. Part VI deals with miscellaneous provisions. Matters relating to spent convictions, right of appeal and rule-making powers are dealt with under this Part.

31. The Criminal Code (Amendment) Act, 2007 (No. 3 of 2007) which pertains to children was recently passed. This is a significant amendment to our Criminal Code in two respects. Firstly, the participation and interaction with child pornography has now been expressly made an offence under the laws of the Virgin Islands. By section 284A (2), any person who intentionally publishes or is concerned in the publication of, produces or is concerned in the production of child pornography, or has child pornography in his possession, commits an offence and is liable on conviction on indictment to a term of imprisonment not exceeding fourteen years. Prior to the amendment, the Criminal Code made no specific provision for child pornography and therefore certain acts which fell outside existing criminal provisions could not be criminalized as acts of child pornography.

32. Secondly, human trafficking of minors for exploitation, though not common in the British Virgin Islands, is another crime being perpetrated against minors, as well as women. The amendment creates the offence of human trafficking of minors. As such, any person who is concerned with

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trafficking of minors is liable on indictment to the maximum penalty of imprisonment for life.

**CAYMAN ISLANDS**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. Upon ratifying the Convention of the Rights of the Child through the United Kingdom, the government of the Cayman Islands took initial steps to comply with the provisions and principles of the convention by drafting the Children Law, 1995. However, due to technical difficulties in implementing the law, it was repealed and redrafted.
2. In November, 2003, the Cayman Islands legislature passed a new Children Law, 2003. Steps are now being taken to commence the drafting of the regulations to the law and it is expected that the law will come into force in the near future.
3. Over the decades, the Cayman Islands legislature has implemented numerous domestic laws to legally protect the rights and interests of children in Cayman society. This continued commitment is also evident in the periodic review of existing laws to ensure that provisions deemed harmful to children are removed, and that additional statutory protections are included.
4. The domestic laws cover subject areas which include the welfare and safety of children, the preservation of rights and freedoms; offences against children, custody and guardianship, access to appropriate information and health care to name a few.
5. It is expected that once The Children Law, 2003 comes into force, new protective measures will be created. The new law will introduce the role of the Guardian *ad litem*, who will be the child's representative during judicial proceedings. The introduction of the law will also introduce extensive regulatory measures over private homes and other child caring facilities.
6. The establishment of the Family Support Unit, which is a unit within the Royal Cayman Islands Police is a section dedicated to investigating offences that relate to women, children and the family. The officers that run the unit receive special and ongoing training to adequately and properly investigate these crimes. Amendments to the Evidence Law (2005 Revision) also affords child victims with limited protections in the event that they are required to give evidence.
7. The creation of the Human Rights Committee and the establishment of the Office of the Complaints Commissioner are also expected to provide the necessary independent checks and balances to ensure that violations against children are addressed and that government departments who handle children affairs are operating at appropriate standards.
8. Over the years, the Government of the Cayman Islands has approved large budgets to government departments such as the Department of Children and Family Services, The Department of Education and the Department of

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Youth and Sports to name a few. The funds allocated to these departments are expected to meet the growing social, academic and developmental needs of children in the Cayman Islands. For the financial year 2005 to 2006 the approved budget for The Department of Children and Family Services was CI\$8,065,534. For the financial year 2005 to 2006 the approved budget for the Department of Education was CI \$48, 000,01.

9. The Government of the Cayman Islands and private groups have also implemented initiatives to ensure that children in the Cayman Islands are not disadvantaged. Some of these initiatives include the development of the National Parenting Programme by the Department of Children and Family Services, the ongoing education initiative to improve literacy and overall academic achievement in schools and the establishment and support of local mentoring programmes by private groups and members of the community.

10. Programmes such as summer play writing and drama classes at Cayman National Cultural Foundation, the National Festival of The Arts and art workshops at the National Gallery and are some of the private and public initiatives which ensure that children develop culturally.

11. Policy wise, the Ministry of Education has adopted the document entitled the National Consensus of the Future of Education in the Cayman Islands. This document outlines the steps to be taken to produce a 'world class education service' in the Cayman Islands. The Cayman Islands Government and other stakeholders are also in the process of updating the National Youth Policy.

12. As it relates to data gathering, each government department currently gathers its own data. Most departments are able to provide this information in some form. However, due to the fact that there is no existing central database established, data is often time not readily available or is in an easily retrievable form. This has been an area identified by the Cayman Islands Government as one area which required increased coordination.

13. Currently, the Cayman Islands are undergoing a National Assessment of Living Conditions exercise. This assessment follows the outline of a country poverty assessment that is being conducted in conjunction with the Caribbean Development Bank. The Cayman Islands Government normally uses data such as the unemployment rate and the consumer price index to formulate the Strategic Policy Statement, which is a document that guides its financial and economic policies. The findings of the National Assessment will hopefully provide the Government with useful information on what policies would need to be developed and implemented to address any identifiable social and economic concerns.

14. As a British Overseas Territory of the United Kingdom of Great Britain and Northern Ireland, the Cayman Islands are committed to providing the necessary protections to children as envisaged by the United Nations Convention on the Rights of the Child

## **CHAPTER II: DEFINITION OF THE CHILD**

15. In the Cayman Islands the age of majority of a child is achieved earlier than that stated in the Convention. The definition of “Child” contained in various domestic laws of the Cayman Islands define “child” or “ young person” as a child or person under the age of seventeen. This definition features primarily in criminal and care and protection legislation. This means that children who have reached the age of seventeen and have committed a criminal offence are treated as adults and are tried by either the Summary Court or the Grand Court and no longer appear before the Youth Court.

16. Likewise, under the Education Law, the compulsory age for education ceases at age 16. However, most children matriculate at age 17 due to Government adding a year to the education system. The disparity between the difference in definitions of “child” in various legislations does present a problem, particularly in the area of education and rehabilitation of children under the age of 17 and 18. In such instances, the children continue to be under the compulsory care of the courts and other government agencies through wardship, however, the provision for compulsory education does not exist.

17. In the Cayman Islands, the age for sexual consent for both sexes is 16 years of age. The age of criminal responsibility has increased from age 8 to 10 in domestic law. However, the added provision of the law which requires that criminal capacity of a child under the age of fourteen be proved is viewed as an additional safeguard which addresses any concerns regarding the statutory age of criminal capacity. This provision allows the Attorney General who is responsible for prosecution in the islands, the flexibility to examine such cases based on the capacity of each child.

## **CHAPTER III: GENERAL PRINCIPLES**

18. The “best interest of the child” principle is a well established and settled common law principle which has historically been embraced by the judiciary in the Cayman Islands. This principle has been restated in many local custody and care matters and is also applied in international child abduction cases that are heard pursuant to the Hague Convention on the Civil Aspects of International Child Abduction 1981. The “best interest of the child” principle is expressed in the local adoption law legislation and is a predominant theme in the Children Law, 2003. For example, section 24(4) of the Children Law, 2003 requires that before the Department of Children and Family Services can make decisions with respect to a child whom is in its care, or is proposing to look after, it must first ascertain the wishes and feelings of the child and other parties affected by the decision of the department.

19. The Cayman Islands government has taken positive steps to eliminate discrimination against children that have been identified in local legislation. The implementation of the Status of Children Law, 2003 is a tangible example



of the legislative decision to remove discrimination against children born outside of wedlock. The implementation of this law has removed the distinction between the rights of legitimate and illegitimate children and has afforded all children equal rights. This has positively impacted the rights of previously disadvantaged children as it relates to citizenship rights and inheritance.

## **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

### ***Registration of Births***

20. In the Cayman Islands, every child is entitled to a name. In accordance with the Births and Deaths Registration Law (1996 Revision), the birth of every child in the Cayman Islands must be registered. Section 11 of the law requires that the mother or father of a child born alive in the Cayman Islands, register the child's birth with the General Registry within 42 days of their birth. There are very few if any incidences of parents failing to register the births of their children in the Cayman Islands.

### ***Nationality***

21. In accordance with the Immigration Law (2006) Revision, a child born to non Caymanian parents does not automatically acquire the citizenship of the Cayman Islands. However, children born to one or both parents who are Caymanian, irrespective of whether they are born in wedlock in most cases will automatically have a right to be Caymanian.

22. There are very few cases whereby the issue of statelessness of a child occurs in the Cayman Islands. However, in the event statelessness arises, section 20(1)(e) the Immigration Law (2006) Revision provides for the grant of Cayman Status to be granted by the Governor acting on the recommendation of the Permanent Residency and Cayman Status Board and ratified by the Legislative Assembly.

### ***Protection of Privacy***

23. The Cayman Islands Constitution does not contain a Bill of Rights Charter, although the country is undergoing constitutional reform. However, international best practices are applied by the Government as it relates to children in the media, court appearances and protection of information of children.

24. The coming into force of Freedom of Information legislation in the Cayman Islands has also taken steps to ensure that child related information is protected.

### ***Education***

25. The education of children is compulsory in the Cayman Islands. There are no barriers to children receiving education in the Cayman Islands

irrespective of their race, religion, sex or ethnic origin. Children of immigrant workers who reside in the Cayman Islands are also required to be placed in school.

### ***Freedom of Thought, Conscience and Religion***

26. The Cayman Islands Constitution does not contain a Bill of Rights Charter. However, there is a general respect for freedom of thought, conscience and religion. The Education Law (1999 Revision) Part VI: 20:1-2 and Part VII: 42: 1-2 and Administrative Handbook 1991 Page 18 (6.1) and the Moral and Religious Education Curriculum speak to Article 14 of the convention as these documents outline what is expected of all concerned i.e. parents have the right to request that their child/children be exempted from certain religious activities.

27. Upon the Children Law, 2003 coming into force, freedom of religion will be protected in that while care orders are in force, the Department of Children and Family Services shall not cause any child to be brought up in any religious persuasion other than that in which he or she would have been brought up if the order had not been made.

### ***Access to Appropriate Information***

28. In promoting access to information, the education system of the Cayman Islands has been paying particular attention to the elimination of illiteracy and the promotion of cultural exposure of children. Pupils in the primary education system in the Cayman Islands receive formal instruction in the teaching of language Arts 10 hours per week. Language Arts embodies subjects such as; Reading, Phonics, Comprehension, Spelling, Handwriting, Vocabulary and Creative Writing. Initiatives such as the national reading week and district library programmes also promote wide access to information by children.

29. There are however, statutory measures which afford the necessary protections to ensure that children are only exposed to appropriate information. Sections 53 and 54 of the Penal Code (2005 Revision) allows the Governor to prohibit the importation of publications that he believes is against public order, hence the importation, sale, distribution or reproduction of any such material is a criminal offence. Likewise, section 156 of the Penal Code (2005 Revision) criminalizes any dealings in obscene publications.

30. The implementation of the Cinematograph Law (1995 Revision) in the Cayman Islands is also another means by which information is checked for its appropriateness before it is disseminated to the wider public.

31. Freedom of Information legislation will also soon come into force in the Cayman Islands. Children who wish to access information through this channel may soon be able to do so.

***Right not to be subject to Cruel, Inhumane or Degrading Treatment or Punishment***

32. The Penal Code (2005 Revision) establishes offences as a protective measure against cruelty to children. Under this law, it is an offence for anyone who has responsibility for a child to wilfully assault, ill-treat, neglect, abandon or expose the child in a manner that would cause him unnecessary harm. The law criminalizes actions and omissions which result in the child being neglected or causes a child's ill health. It is also a criminal offence to make a child carry out inhumane and degrading treatment in the form of begging or receiving alms, or inducing the giving of alms whether there is any pretence of singing, playing, performing, offering anything for sale or otherwise.

33. Although Corporal Punishment in schools is still legally permitted under the Education Law, a policy directive has removed the use of corporal punishment as a means of discipline in schools throughout the islands. The Education Law is currently under review.

34. With respect to corporal punishment at home, there is no legal restriction on carrying out such punishment. However, through various parenting programmes, a greater awareness is being relayed to the public as to what is legally permitted and what constitutes abuse. Parents are also informed of alternative forms of discipline.

35. Cases of physical abuse are generally handled by the Department of Children and Family Services and the Family Support Unit of the Royal Cayman Islands Police. These cases are expedited, with children being removed from harmful environments and are usually subject to counselling.

36. Historically, there are very few if any known cases of torture of children in the Cayman Islands. However, identified torture cases have been handled by the Department of Children and Family Services with the collaboration of the Royal Cayman Islands Police.

**CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

37. Both traditional and non-traditional family structures are present in the Cayman Islands. Parental guidance is not legislated, however, it is expected that parental guidance should be provided by the persons having parental responsibility for the child.

***Care and Custody***

38. In the absence of legislation which deals with joint parental responsibility for children, the United Kingdom common law position applies. The common law position is that both parents have parental responsibility for a child born within the marriage. With respect to children born out of wedlock,

the mother has sole parental responsibility for the child. The father however, can also acquire parental responsibility for the child once he is adjudged by a court of law to be the father of the child. When the Children Law, 2003 is brought into force it will put these principles on statutory footing.

### ***Parenting Programmes***

39. The Cayman Islands Government through the Department of Children and Family Services “DCFS” has also established a number of community programmes aimed at promoting the integrity of the family. Some of these programmes include, The Young Parents Programme and The National Parenting Programme.

40. The National Parenting Programme (NPP) is a joint project, which includes the Department of Children and Family Services, other government departments and other non governmental organizations. The main emphasis of the NPP is to motivate and uplift parents to fill the roles of responsible and accountable parents.

### ***Maintenance of Children***

41. The Maintenance Law (1996 Revision) allows for the Court to order the financial maintenance of children in cases where there is evidence that the child is not being financially maintained.

### ***Housing***

42. The establishment of the National Housing Trust and other low income housing schemes are measures that have been taken by the Cayman Islands Government to ensure that families may remain together and can live at an acceptable level. The remit of the Department of Children and Family Services is also to provide assistance to families to help them re-establish themselves in the community.

### ***Temporary or Permanent Placement of Children***

43. The Department of Children and Family Services is responsible for adoption and foster care placements. These placements are made through the courts. The department has implemented specific procedures so that special attention could be given to these cases. The creation of the position of Adoption and Foster Care Coordinator facilitates the placement of children who require temporary or permanent placement.

### ***The Police and the Family***

44. The establishment of the Family Support Unit which is a unit within the Royal Cayman Islands Police is a section dedicated to investigating offences that relate to women, children and the family. The officers that administer the unit receive ongoing training to adequately and properly investigate these crimes. The establishment of this unit allows for special attention to be paid to

family related investigations.

45. The recommendation to separate a child from his or her parents is given only in circumstances where the child is at risk and is in need of care and protection or if the child is beyond parental control. The removal of the child from the family home and placement into alternative care is done through an order of either the Youth Court or the Juvenile Court.

## **CHAPTER VI: BASIC HEALTH AND WELFARE**

### ***Disabled Children***

46. Children with physical or mental disabilities in the Cayman Islands have equal opportunity to receive education in the Cayman Islands. The Lighthouse School which is a public school that was established to cater to the specific needs of these children has been in operation for a number of decades. The school accommodates children between the ages of 4 years 9 months to 17 years.

### ***Health Care in Schools***

47. The Ministry of Health & Human Services has responsibility for the oversight and regulation of health care services within the Cayman Islands. The primary objective of the School Health programme is to remove health barriers to learning, by promoting health and wellness for all students as well as facilitating health education for all levels of students. The school health services are made available to all students regardless of race, gender or nationality.

### ***Screening***

48. School Entry Screening offers a comprehensive health screening service to children entering year one. This service is extended to all students in both public and private schools. Proof of screening is a requirement for admission to any school in the Cayman Islands. This is given in the form of a Certificate of School Entry Screening signed by the School Health Coordinator and the parent/guardian.

49. All government secondary/high schools in the Cayman Islands have the benefit of a resident school nurse and dental hygienist. This team arranges health assessments for children and screening for problems with hearing, vision, growth, nutrition, speech and general development so that any health problems can be identified early.

### ***Immunization***

50. Resident children are immunized against communicable diseases, namely tuberculosis, diphtheria, tetanus whooping cough, poliomyelitis, Haemophilus influenza b infections, hepatitis B, measles, mumps, rubella and

chicken pox. The tetanus vaccine programme is carried out on a continuous basis for all high school children the age of 14 years and over. The aim is for all graduates to leave High School fully immunized. Immunization coverage is in line with World Health Organization (WHO) targets.

### ***Nutrition***

51. Breast feeding is encouraged in the Cayman Islands through campaigns that are initiated by the Public Health Department. Breast feeding is encouraged as the optimal source of feeding for infants from birth to 6 months (World Health Organization standard of exclusive breast feeding). The Cayman Islands Hospital complies with many facets of the *Baby Friendly Hospital Initiative* and is working toward certification as a Baby Friendly Hospital.

52. The National Breastfeeding Policy was updated in 2001 to include provisions of the new World Health Organization standard of exclusive breastfeeding. Breastfeeding Awareness Week is annually observed in the Cayman Islands beginning August 1 and is coordinated by the Health Promotions Officer, the Breastfeeding Working Group and Breastfeeding Support Group.

### ***Birth Weight***

53. Statistics for the last five years (2001 - 2005) show that there were a total of 3,165 live births in the Cayman Islands. The year 2005, 715 live births, saw an increase of 16.8% (103 more births) than the average for previous years (2001 to 2004), 612 live births. 8% or 238 infants of the total live births, all years, were underweight.

### ***Mortality Rate***

54. There were a total of 24 deaths to children under 5 years old for the period 2001 to 2005; an average of 4 deaths annually. Main causes of death were due to: Extreme pre-maturity (7), Congenital organ abnormality (5), Dysfunction of a diseased brain (2), Neonatal Asphyxia (2), accidental drowning (2), and 1 each to Achondrenesis (growth dysfunction of bones to extremities) Bronchopneumonia, Seizure disorder, Sudden Infant Death Syndrome, Accidental Asphyxia and Motor vehicle accident. Between 1995 and 2004, there have been a total of 437 children born to teenage mothers under the age of 15 years to 19 years.

### ***Communicable Diseases***

55. The overall incidence of communicable disease in children remains low in the Cayman Islands. Reports of sexually transmitted infections have been declining since 1998, however, it still remains a cause for concern. Malaria and dengue fever are not endemic to the Cayman Islands. One case of Tuberculosis was reported in 2004. Chicken pox has steadily declined since

1998 with 85 cases reported in 2004 and 33 so far this year. In 2004 there were 310 cases of Influenza reported and as at June 2005, 184 cases.

### ***HIV and AIDS in the Cayman Islands***

56. The official response of the Cayman Government to HIV/AIDS is articulated in the *Cayman Islands Government Policy on HIV/AIDS of April 1991*, which states that the Government recognizes that HIV/AIDS is a global problem, and notes that there are medical, ethical, legal, socioeconomic, cultural and psychological implications of HIV/AIDS.

57. A dedicated staff member, namely the STD Coordinator was assigned to the National Programme in 1995. The staff member's role is to organize the services required for HIV/AIDS patients and their families and to generally take measures to increase the awareness of STD's, HIV and AIDS. The STD Coordinator also offers free voluntary counselling and screening. Free medical care and anti retroviral therapy (ART) drugs are available to AIDS/HIV patients. Programmes coordinated by the Cayman AIDS Foundation, the Cayman Islands Red Cross and the Public Health Department provide public awareness to children and young persons on HIV and AIDS.

58. The first case of AIDS in the Cayman Islands was identified in December 1985. The last local case of perinatal transmission was in 1994. There have been 4 persons under the age of 20 diagnosed as HIV positive; one person diagnosed at 19 years old and three cases were the result of perinatal transmission.

59. Strongly convinced of respect for human life and dignity of HIV infected people and people living with AIDS, the Government has committed itself to a number of issues including, the protection human rights and dignity of PLWHA (Persons living with HIV and AIDS) and the population in general and avoid discriminatory action and stigmatization against PLWHA in the provision of services and employment.

60. One of the policies of the National Programme is to ensure that no child with the HIV infection will be deprived of an educational opportunity.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### ***Free & Compulsory Education***

61. The Education Law provides for free compulsory education for all Caymanian children in the Islands of school age. Non-Caymanian children of school age, who are legally resident in the Cayman Islands, are eligible for admission to government schools but are required to pay a tuition fee ranging from \$250 at the primary school level to \$400 at the upper secondary level.

62. There are 20 primary and 9 secondary schools, some of which are

operated by churches or other private organizations. Of this number, Government maintains, entirely at public expense, eleven (11) Primary schools, one (1) Middle/junior high, two (2) Secondary High Schools, one (1) special school for mentally and physically challenged pupils and one (1) Alternative Centre for students with severe behavioural problems in Grand Cayman; and in Cayman Brac. There is also a small Education Centre serving a few pupils in Little Cayman.

63. As at June 2004, there were 6062 pupils enrolled at the government/private primary, specialist, centres and secondary levels, of which 3004 were girls, and the teaching staff totalled 251 at the primary level and 249 at the secondary level.

### ***The Schools' Inspectorate***

64. The aim of the Schools' Inspectorate is to contribute to continuous school improvement in the Cayman Islands, through rigorous external evaluations of schools and by providing high quality policy advice and training. Inspectors are guided by the criteria in the Cayman Islands *Handbook for the Self-Evaluation and Inspection of Schools*. This framework for inspection has been developed from international best practice and adapted to our local context. Each school receives an inspection every four to six years. The inspection identifies the school's strengths and the areas that need to be improved.

### ***Education of Disabled Children***

65. The Light House School is the designated public school in the Islands which educates disabled children in the Islands. The school currently utilizes the COACH (Choosing Outcomes, & Accommodations for Children) educational planning tool which is used to identify Individual Long and short term objectives which are used to write and implement student IEPs. The entire process is done on the entry into school, and annual reviews are completed thereafter with monitoring procedures throughout the year

### ***Curriculum***

66. The curriculum offered in government schools is well-balanced covers a wide range of subjects. Educators adapt the curriculum to suit the needs of all students. Differentiated teaching is encouraged to ensure that all students are given equal opportunity to learn. Students who graduate from high schools are awarded a graduation certificate.

### ***Access to Scientific & Technical Knowledge***

67. The ITALIC Programme, which was established to utilize information technology for the improvement of teaching and learning in schools in the Cayman Islands, has received a budget allocation of CI\$12million over the last five years. As a result, every teacher in the government school system



has been provided with a laptop computer; there are now significant numbers of computers in all schools; ICT programmes have been implemented to improve literacy and numeracy; and ICT training has been provided for all staff so as to ensure that all staff are ICT literate.

### ***School Literacy Initiatives***

68. Most schools, primary, middle and high have a school literacy action plan to address the literacy needs of the school. Individual schools are encouraged to initiate literacy programmes to make students and parents aware of the importance of literacy. Examples of programmes done include: "*Rookie Bookie, Reading —The Key to Success, Just For The Love of Reading and Literacy +2000*".

### ***Budget Allocation***

69. Concern over the results of recent statistical research on literacy has prompted the establishment of a Literacy Working Party and the inclusion of a new output in the 2006/7 budget, specifically designed to address literacy. This has been allocated CI\$1.5million in funding, which will be utilized to, amongst other things, appoint greater numbers of literacy specialists and support assistants.<sup>2</sup>

### ***Leisure, Recreation and Cultural Activities***

70. *The National Children's Festival of the Arts*. One of the primary ways in which the Education Department fosters cultural development is through the annual National Children's Festival of the Arts (NCFA).

71. The NCFA is the vehicle through which the creative talents of all government and private school age children in Grand Cayman, Cayman Brac and Little Cayman is displayed. This year over 4000 children participated in vocal music, instrumental music, speech, drama, dance, creative writing, and art & craft.

72. The Festival's Art & Craft Exhibition which is not a competitive and is designed to encourage creativity, expressiveness and personal development.

73. Our annual publication, the Coutts Collection of poems, stories and essays has been sent to the publisher. It is a 122 page book of 45 poems and 20 stories and essays which were prize winners in the Festival's Literary Competition. Interspersed between the pages of the book are 10 pictures of pieces from the 2006 NCFA Art & Craft Exhibition.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

74. The Juvenile system and the Youth Justice system in the Cayman

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Islands are governed by the Juveniles Law, 1990 and the Youth Justice Law (2004) Revision. These two systems address the care and protection needs of children and the rehabilitation needs of juvenile offenders.

75. The Department of Children and Family Services assigns a social worker to each child that passes through these courts. The foster care needs of children who require care and protection are met through the Department and the rehabilitation needs of some children are met by the CAYS Foundation and other government run homes.

***Preservation of Dignity and Worth of Young Offenders***

76. The Royal Cayman Islands Police (RCIPS) has implemented a number of measures to ensure the protection of juveniles' rights as it relates to being treated in a manner that is consistent with the promotion of the child's sense of dignity and worth.

77. The RCIPS has a specialist department that was formulated to handle issues involving juveniles and young persons; this department is known as the Family Support Unit "FSU".

78. Upon receiving a report involving a child the FSU immediately contacts the Department of Children and Family Services to have a social worker assigned to the child and the parents of the child. The social worker is usually involved in all aspects of the investigation/intervention conducted by the Police<sup>3</sup>.

79. Children who have committed criminal offences are subject to the same rules as adults, however, when they are to be interviewed efforts are usually made to ensure that either a parent or guardian is present during the interview process. At times the social worker is the individual who attends with the child due to the lack of parental or family support of the child.

***Measures taken to Prevent or lower the level of Criminal Conduct of Young Persons***

80. The DARE (Drug Abuse Resistance Education) programme is an initiative of the Royal Cayman Islands Police Services whose primary purpose is to target the youth through camps and awareness programmes on the negative implications of the consumption and consequences of the use of soft and hard drugs.

81. The Royal Cayman Islands Police service (RCIP) implemented the (DARE) Drug Abuse Resistance Education programme in the primary schools of Grand Cayman in January 2000. At present all public and private schools in the Cayman Islands participate in the DARE programme with about 550 – 600 students graduating each year from the programme. The scope of the DARE programme has also expanded to teaching children about drugs and

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life skills. At present, the RCIP has allocated 7 officers 6 on Grand Cayman and 1 on Cayman Brac to ensure that all the year 6 students of the Cayman Islands have the opportunity to participate in the programme.

***Drug Abuse***

82. The National Drug Council has sought to educate the youth through questionnaires and educational awareness campaigns. The NDC compiles data received from the surveys to monitor the incidence of drug use in children as well as their involvement in the production and trafficking of narcotic and psychotropic substances. The NDC has compiled the data according to age, gender, social and ethnic classes. Overall the NDC reports illustrated the changes in drug use between 2000 and 2002. These highlighted the decline in tobacco use among 9<sup>th</sup> and 11<sup>th</sup> graders whilst 11<sup>th</sup> graders showed an increase in alcohol use. Heavy drinking increased amongst 10<sup>th</sup> graders and ganja use increased amongst the total sample and amongst males and 11<sup>th</sup> graders. Gender difference occurred for ganja and heavy drinking; with males reporting a higher rate of use than females.

**FALKLAND ISLANDS**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. A Children and Young People's Strategy Group ('CYPSPG') has been formed to champion and be an advocate for the rights of children in compliance with the Convention. With regular monthly meetings, there is an expectation that the CYPSPG monitors progress and outcomes and reports on a regular basis to the Executive Council.
2. Steps have been taken to bring the Convention to the attention of the wider community. The Girl Guides have recently held a residential weekend which focused on looking at Children and Young People's rights and responsibilities. They have been working towards new badges exploring the rights of individuals. The first meeting of voluntary and community group leaders, who work with and for young people, including uniformed groups, has been held and the UNCRC has been brought to their attention and avenues of discussion as to the part they can play have been opened. A Children and Young People's Awareness week is planned for November 2006, when the fundamental rights of children will be given a high profile and their place within the CRC explained.
3. In 2005 a review of existing child care provision was carried out, with the support of Shackleton Scholarship funding. The outcome of that review was a set of written recommendations indicating where improvements could be made. These included regulation of child minding, legislation relating to adoption and regulation of nursery provision.
4. In order to gain a realistic assessment of the legislative basis and progress made in respect of compliance with the Convention, the Falkland Islands Government has accepted an offer by the NCH to review all of the legislation pertaining to children with a view to advising on to what extent it is UNCRC compliant. All new legislation will be checked by the Attorney General to ensure that it is UNCRC and Human Rights compliant, as well as being compliant with the written constitution of the Falkland Islands.
5. The Falkland Islands does not have a formally constituted Human Rights Committee. This is a matter which will be raised for discussion and consideration with the Executive Council of the Islands. The European Convention on Human Rights has not been incorporated into Falkland Islands law, and the Human Rights Act 1998 has not been applied to, nor been replicated in, the Falkland Islands.

6. The Administration of Justice (Amendment) Ordinance 1998 included an important amendment to the Administration of Justice Ordinance, by replacing s.47(2) to state, amongst other things, that there shall be no limitation on the time within which a prosecution may be commenced for any sexual offence committed upon or in relation to a person aged under 16 at the time of the offence. Prior to this amendment such sexual offences committed on those under 16 were strictly time limited, which hindered the prosecution of a number of offenders.

7. Reservations by the United Kingdom of Great Britain relating to Articles 32 and 37c remain in place for the Falkland Islands. Militating against those reservations there is legislation in force in the Falkland Islands which governs child labour. The law is contained in the Employment of Children Ordinance 1966, as amended in 1968, 1985 and 2006. In respect of Article 37 (c), the current position has changed little since the previous report, but progress is now envisaged with budgetary provision being made for improvements.

8. Stanley Prison, housed in the Stanley Police Station, is governed by the Prison Ordinance 1966. The Ordinance provides for the segregation of male and female prisoners, prisoners under the age of seventeen years from prisoners over that age, criminal and trial prisoners from civil prisoners, trial prisoners from convicted prisoners and any other such class may be separated into such divisions as may be prescribed. The present prison has a female cell on the first floor of the prison totally separating it from the main cell area, on the ground floor. This cell has been designated a Young Offenders Institute. It is a self-contained cell with toilet and wash-basin facilities and is connected by a call button to the Police control desk.

9. Since 1996, only two custodial sentences have been imposed upon under 18 year olds following prosecution of children. The NGO NCH have carried out an assessment of the system and practices which are prevalent in the Falkland Islands. From this was devised an Action Plan which detailed the steps which need to be taken to make further progress towards full compliance with the Convention.

10. Despite the existence of the Family Law Bill and the Children Ordinance 1994, there currently exists no legislation regulating fostering, child minding or the provision of early years, either as to the persons undertaking such activities or the premises in which they may be undertaken.

11. Part 1 of the Sexual Offences Act 2003, creates a framework of sexual offences, setting out new categories of offences involving abuse of trust, care workers and people trafficking, amongst others. The protection of children is one of the primary objectives of the Act. Children under the age of 13 will not be capable in law of giving consent to any form of sexual activity. Developments in technology and the Internet are also dealt with.

12. The Finance Ordinance 2005 amended the Family Allowances Ordinance to state that family allowance is no longer payable to a person who does not hold a permanent residence permit or Falkland Islands Status, except where the child in question does have Falkland Islands Status. The rate of child allowance is now £53.50 per month (from the 1<sup>st</sup> January 2003) but additional single parent's allowance has been abolished since the last report.

13. Changes in the Criminal Justice Ordinance provide that no court shall pass a sentence of imprisonment on a person under 21 years of age or commit such a person to prison for any reason (other than on remand in custody or committed in custody for trial or sentence). To be sentenced to a Young Offender Institution a male must be under 21, and at least 14, and a female must be under 21 and at least 15. It is currently proposed that the difference between genders be eliminated by legislative amendment.

14. The Sexual Offences Act 2003, as applied to the Islands by the Sexual Offences Ordinance 2005, makes the age of consent for both heterosexual and homosexual sex 16 years of age.

15. Of major significance is the new Criminal Justice (Evidence) Ordinance 2000. This is an important Ordinance amending the law relating to the giving of evidence. It includes special measures for vulnerable and intimidated witnesses. Children under the age of 17, amongst others, are eligible for the assistance the Ordinance provides.

## **CHAPTER II: DEFINITION OF THE CHILD**

16. For the purposes of this report the definition of 'child' remains unchanged from the initial report. That is, it is used to denote a person under the age of 18 years (that is to say any person who is not an adult).

17. Previously, in respect of corporal punishment boys were treated differently from girls, in that it was unlawful for a child under 11 to be corporally punished but that such punishment for a child over 11 would be lawful in the circumstances stated therein. The Education (Amendment) Ordinance 2002 made corporal punishment of any pupil at any school in the Falkland Islands unlawful.

18. The Employment of Children Ordinance 1966, amended in 1968, 1985 and 2006, provides protection for children from working in hazardous conditions.

19. The Criminal Law (Miscellaneous Provisions) Ordinance 2003 made various amendments to the Crimes Ordinance and the Criminal Justice Ordinance. Prior to this, it was presumed that a child over 10 years of age was incapable of committing a criminal offence, but this presumption was capable of being rebutted. Now there is no such presumption to rebut.

### CHAPTER III: GENERAL PRINCIPLES

20. The policy of the Falkland Islands Government that the best interests of the child shall be of primary importance remains as cited in the initial report. The Children Ordinance 1994 persists as the legislative instrument.

21. In 1996 the Falkland Islands Government implemented legislation to ensure the wearing of seat belts by all children carried in motor vehicles.

22. The best interests of the child are integral to the work of the Social Work Department. Through the processes of initial assessment and case planning, reviews and care proceedings the child's interests remain paramount. Staff in both the Social Work Department and the Royal Falkland Islands Police Force have undergone 'Achieving Best Evidence' interview training. This training equips relevant staff to undertake sensitive interviews utilising a process which keeps central the best interests of the child throughout the whole of the required processes.

23. As the Islands have a small population of approximately 3000 there are limited health resources. The limitations are not only related to cost but also with the skills required to work in an island environment. Therefore no resident obstetrician or neonatology team are present on the Islands. The health visitor, who is UK trained and registered, is the trained health carer for children.

24. Demonstrating respect for the views of the child is a developing concept. A Young People's Working Group was set up in July 2005. The Group undertook a survey which involved all children in the Islands aged 9 and over. Within the Education Department there are various forums through which children are able to express their views and opinions. The secondary school has a school council which gives senior school members the opportunity to give feedback to the Education Department. The Infant/Junior school also has a school council.

25. There are, however, omissions in provision for some groups. For children whose first language is not English, the systems in place to support learning of English as a Second Language is underdeveloped. Thus the opportunity for them to express themselves, their views and opinions is limited. Steps are being taken to rectify this. The Infant/Junior school has recently engaged a member of staff who is bi-lingual and a programme of support for Spanish speaking children is being formulated.

26. Progress has been made in catering for children with Special Educational Needs but as yet this is not embedded into the education system and is addressed on an ad hoc basis dependent upon the required needs at any one time. Specialist support from the United Kingdom is made available for assessment of needs and also regular visits by an Educational Psychologist support the development of individual learning plans. The Health Visitor and Social Services Team work closely with children who are identified

as having special needs at an early age and involve other professionals as necessary.

27. In the Falkland Islands no child is subject to the death penalty. Section 2(i) of the Falkland Islands Constitution specifically prohibits the imposition of the death penalty.

28. For as long as records have been kept there have been no recorded suicides amongst children and young people.

29. During 2005, 327 Chlamydia tests were carried out in the Falkland Islands. This includes those which were routinely administered in conjunction with cervical smears. 29 results of these tests were positive but none of these related to the 18 and under age range. Also carried out during the year were 42 syphilis tests, 76 HIV tests and 60 Hepatitis B tests all of which were negative (c.f. Section VI).

30. In 2005, the Social Work Team received 20 child protection referrals and 34 referrals for children in need. 8 children were on the child protection register in 2005 due to assessed risk of emotional/physical harm, neglect or sexual abuse.

#### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

31. The period of registration for new born babies in the Falkland Islands has been reduced from 6 weeks and all babies born are now required to be registered within 10 days of their birth.

32. As recorded in the previous report, there is no fundamental right of privacy afforded through the Constitution. Unlike the United Kingdom there is no data protection legislation in force in the Falkland Islands. There is also no Freedom of Information legislation in force in the Falkland Islands, except the committees' Access to Information Ordinance. However, as a matter of policy Government Departments act in accordance with the Freedom of Information Code which preceded the Freedom of Information Act in the United Kingdom.

33. The right to administer corporal punishment to boys over the age of 11 with parental consent has been abolished, and to inflict corporal punishment on a child is now unlawful.

34. There is no Minimum Wage legislation in the Falkland Islands and therefore there is no minimum wage data on people claiming social welfare benefits or those who are engaged on the employment programme. As a consequence there are no accepted measurements of poverty. What is apparent is that the numbers of people, including young adults seeking support through the employment programme and social welfare payments, are increasing.



## CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE

35. Considerable progress has been made to raise the profile of good parenting and the benefits this has for the development of the child. Health, Social Services and Education Departments all play a part in this progress. Antenatal classes and good parenting courses are provided through the Health and Social Services Department. Child Development GCSE and a local certificate for 'How to be an Effective Babysitter' are offered at the secondary school.
36. A policy decision was taken no longer to provide long-term residential provision for children and young people in the Falkland Islands. There is however provision for emergency residential placements and foster placements (respite, short term and emergency). The care plans for children who are looked after away from home or have respite care are conducted in line with UK guidance. Children and young people's views are integral to the process.
37. For adoption various provisions of the English Adoption and Children Act 2002 are applied to the Falkland Islands, subject to general modifications, by virtue of the Interpretation and General Clauses Ordinance 1977. As a matter of good practice, adoption is a measure of last resort, and it is the intention to present an Adoption Bill to Executive Council for the Falkland Islands, to ensure clarity as to what provisions are in force.
38. From the start of life, the midwives provide caseload management so that most pregnant women are cared for by one midwife throughout their pregnancy and labour. The small community brings the added benefit that all the women concerned will know all the midwives.
39. A Child Protection Register is maintained. A designated Police Sergeant is the custodian of the Register. Child protection training 'Safeguarding Children' is undertaken annually, supported by the Falkland Islands Government and is available for all members of the community. Child Protection awareness training is included in government induction programmes.
40. There is no formal system for recovery of maintenance on behalf of a lone parent i.e. there is no system in place similar to that of the Child Support Agency in the UK. If a single parent with a child is applying for welfare benefits there is an expectation that he/she will make every attempt to recover maintenance payments from the absent partner.
41. A system of welfare benefits does exist and the policy which is applied follows the United Kingdom policy. However, there is no statutory right to welfare benefit in the event of unemployment.
42. On 1<sup>st</sup> March 1997 the Child Abduction and Custody (Falkland Islands)

Order 1996 came into force. The Order provides that the provisions of the Convention on the Civil Aspects of International Child Abduction and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children, as set out in the Order shall, with modifications, have the force of law in the Falkland Islands.

43. At present there are no regulations for childminders or nursery education. An independent expert visited the Islands at the beginning of 2006 and has made recommendations to Executive Council with regard to early years service provision.

44. The Human Resources Department of the Falkland Islands Government requires enhanced vetting clearance for those persons employed by the Falkland Islands Government who will be working, or whose work will bring them into contact, with children.

## **CHAPTER VI: BASIC HEALTH AND WELFARE**

45. The King Edward VII Memorial Hospital ('KEMH') in Stanley remains the main focus for health services for the Falkland Islands. This means that primary care, secondary care, emergency care, pharmacy and dentistry are all based in the same building. Visits by specialists increase the range of services available to the population on a regular basis. Emergency health services within Stanley are provided by a casualty nurse who is on call, outside of routine working hours. There is an on-call GP available who will respond as requested. For more remote locations, the RAF can be requested to respond with a Search and Rescue helicopter. . The Falkland Islands has established links to secondary and tertiary services in both UK and Chile. Health services are generally supplied free of charge at the point of provision to all people who fulfil the required criteria: that is Falkland Islanders, people with a Permanent Residence Permit and anyone with a work permit of more than 6 months and their families.

46. Immunisation programmes are comprehensive and since 2000 only one child from the local population has not completed the course of immunisation provided. In this case the booster MMR was refused by the child's parents.

47. In Stanley, as a rule, domiciliary visits are made by a Government employed midwife up until the child reaches six weeks of age. Thereafter, if it appears necessary, home visits are made by a Health Visitor. Particular care is taken with those children who appear on the 'At Risk' register. Developmental checks are maintained on all children at 6 weeks, 8 months and prior to starting school. Hearing is checked at 8 months with the Distraction Test by the Health Visitor.

48. All school children have their sight screened regularly by a Health

## Summary report: Falkland Islands

Visitor and/or ophthalmic trained nurse. Specialist testing is carried out during the regular visit of a specialist optician. Spectacles (with a price limit on the frames) are provided free of charge to children in full time education.

49. All schoolchildren have their oral health checked by a dentist on an annual basis.

50. In both the primary and secondary schools there is a very active Personal, Social and Health Education programme. This is supported by the health service whenever they are invited to attend. This includes discussion on the responsibilities of the adolescent and talks about sexually transmitted diseases and it is through this aspect that HIV/AIDS awareness is raised. Circle time in the primary sector encourages pupils to discuss issues which are a cause of anxiety and worry and therefore promotes emotional health and well being.

51. Although there is an inadequacy in the legal framework with regard to children with disabilities, their needs have always been met following consideration on a case by case basis. Where children come into the education system, either through immigration, as the children of contract workers, or are children with Falkland Islands Status, resources and staffing are sought to meet their specific and individual needs. A system of accredited training is being developed to create a pool of suitably qualified staff to meet adequately the needs of such children in the future.

52. Multi-agency departmental working is developing well and regular core group meetings are held to discuss and plan services for individual children.

53. A group, run by parents with the assistance of the Social Services Team, provides a support service for parents whose children have additional needs. This has been in existence for eighteen months. This is additional to the support afforded to parents with children who exhibit Autistic Spectrum Disorders.

54. Carer assessments are undertaken and attendance allowance is available to support families where additional care is required.

55. Links are made with various specialists who visit the Islands periodically from the United Kingdom, to assess individual children and provide a consultancy service to professionals and families where appropriate. The professionals include obstetrician/gynaecologist, paediatrician, occupational and speech therapists, educational psychologists, developmental psychologists, and professional educationalists who specialise in supporting children with special educational needs both in mainstream and specialist provision.

56. In the last 12 months, a day care services has been established for children and young adults with additional needs.

57. Breastfeeding is promoted within the Falkland Islands with close midwifery contact with expectant and new mothers and good access to health visitor support. While the number of women starting to breast feed is relatively stable there is a noticeable fall off at 6 weeks. This does not appear to be through lack of encouragement or support but may be due to an early return to work by mothers with financial pressures.

58. Child benefit of £53 per child is available for all children where the parents / carers have Falkland Islands Status, but it is not available for the children of 'contract workers'.

59. A parent and baby / toddler group, Jelly Tots, meets twice a week in the church hall. The committee members are volunteers. The Health Visitor and Physiotherapist regularly attend this group and meet informally with parents.

60. The Leisure Centre provides free swimming sessions for children and an accompanying adult. There is one charity and one independent provider who provide day care for pre-school children. They both provide before and after school clubs for school age children and supervise lunch times.

61. The Royal Falkland Islands Police delivers, through a fully trained and affiliated officer, the Drugs Awareness Resistance Education, ('DARE'), programme at primary school level at year four and year six.

62. Contraception is available free of charge at the point of provision. Children under 16 and over 14 can be prescribed contraception if considered to be competent to consent. Children under 14 require the permission of their parent or guardian. In 2005, 29% of 15 year old and 63% of 16 year old girls were taking the contraceptive pill, suggesting that they may be sexually active.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

63. Fundamentally, the school organisation of the Falkland Islands remains as described in the initial report. That is the Infant/Junior School ('IJS'), the Falkland Islands Community School ('FICS') and the Camp Education Service. The National Curriculum delivered remains in line with that of England.

64. Currently there are 230 pupils on roll in IJS, 173 on roll in FICS but the most significant change is that whereas there were 45 children being educated through the Camp Education Service, presently there are only 22, of which 4 are of secondary age, the remainder being in the primary phase of their education.

65. Accordingly, the number of staff have reduced to 5 in total, and the number of settlement schools has been reduced as currently they are not required.

66. Commentary arising from the last report pointed to the underachievement of boys in the Falkland Islands. The latest census report in 2001 indicated that secondary school qualifications, such as GCSE, had risen by 39% since 1996 and vocational qualifications had risen by 31% as a result of the strong educational drive by the Government and the Falkland Islands Development Corporation. The latest statistical data for Key Stage 2 Standard Assessment Tests ('SATs'), (c.f. para.389) from IJS indicates that the gap in attainment between boys and girls has been reducing steadily, although there remains room for improvement especially in English.

67. The majority of students from the Falkland Islands access post-16 education through United Kingdom Further and Higher Education establishments.

68. The Education Ordinance remains the main legislative document governing the education service. Two major amendments have been made to that Ordinance. Firstly, the age parameters of statutory school provision were changed from compulsory education at 5 years of age to 15 years of age to compulsory education from 5 years of age, with the upper compulsory limit being 16 years of age. This brought the compulsory schooling into line with United Kingdom provision.

69. The second major change was the Education (Amendment) Ordinance 2004 which provided for changes in the academic year. This altered the fundamental pattern of the school year to align more closely with the academic year structure which is widespread in the Northern Hemisphere, in essence the English school year.

70. A partnership arrangement has been entered into with Chichester College of Further Education which seeks to establish a post-16 outreach provision from the College in the Islands. This will enable all students to have access to Further Education should they wish to pursue further study.

71. Allied to this, it is apparent that the GCSE route, the only route currently available to students, does not suit the talents and aptitudes of all the students as a way of maximising their learning potential. Plans are therefore in hand to offer alternative pathways to accreditation at 16 through vocational studies from 14 years of age.

72. Changes with regard to the provision for those pupils who have Special Education Needs ('SEN') are also in place. In September 2006, a pilot project is taking place to create an inclusive Learner Support Unit for all children who have SEN. The primary aim of the Learner Support Unit is to address the presenting difficulty as quickly as possible and where appropriate re-integrate the children back into mainstream provision. For some children, where the difficulties are acute, it is envisaged that the support and security of the Unit may be required throughout their school career.

73. Two innovations in curriculum provision are the introduction of Careers

and Citizenship programmes. The former allows children to investigate a variety of career options and investigate the required qualifications to access that form of employment. The latter enables the development of a knowledge and skills base related to good citizenship with a particular focus on the history and culture of the Falkland Islands.

74. Over the last twelve months the IJS has developed a genuine extended school ethos. It is truly a school at the heart of its community. It practices an open door policy and genuinely welcomes parents and friends of the school to participate in school and after school activities. Parents have formed a Parents' Association, whose aim is to increase the range of learning resources which are available to support the children's learning. The range of after school activities has increased tremendously and children are now able to access activities such as music groups, ballet, homework clubs and short tennis plus many more as after school activities. It is intended that this ethos and style of provision will be available to secondary age pupils in the near future.

75. There is now a need to consider specific support to children for whom English is a Second Language in order that they can access the given curriculum and not be disadvantaged as a consequence of language barriers. This requirement is applicable to both schools in the Falkland Islands. First steps have been taken in IJS to provide intensive support to such pupils. Recent SATs analysis shows that this provision is effective in that these children are in fact maintaining progress or even, in some instances, attaining higher than their English speaking counterparts. This provision, formally provided on a somewhat ad hoc basis, will be regularised in FICS in September 2006.

76. Through the Training Unit of the Education Department the accessibility of NVQ accreditation has been open up to not only children and young people but also the community as a whole. Accreditation up to Level 3 is now available locally in a range and increasing number of subjects.

77. The Leisure Centre, adjacent to and an integral part of the FICS curriculum provision for physical education, remains a high profile provision in Stanley. The facilities continue to be well used and a change in membership criteria, with the introduction of cardio-vascular equipment in a gymnasium, has done much to increase the overall take-up of physical exercise as a leisure pursuit.

78. There is a strong tradition of live music in the Falkland Islands and children and young people are heavily engaged in this activity both in events linked to the school and in other community activities. The standard of music teaching and engagement is exceptionally high.

79. The Falkland Islands Defence Force ('FIDF') and the Shooting Clubs provide an outlet for recreational pursuits for older children. The minimum age for joining the FIDF remains at 17 (FIDF Ordinance 1991) and there are no

plans to increase this age.

80. For the size of the community there are a considerable number of clubs and activities which are available to young people and children. The full range of uniformed groups continues to attract children to their membership together with other activities such as the Junior League Darts which has proved very popular. A full list of clubs is detailed in Appendix 25.

81. The equivalent of Youth Club facilities are provided in Government sponsored accommodation known as 'The Shack'. This is a facility which is available to young people, the early session being for pre-teens and the later session until 9.00pm being for teenage children.

82. Permanent exclusion from school is not contemplated in the Falkland Islands as there is no provision, other than the schools, at which children could access their entitlement to education. Where children are experiencing difficulties in accessing their entitlement through the mainstream provision, the newly instituted Learner Support Unit is designed to meet those needs.

83. Regular visits from Educational Psychologists and Assessment specialists ensure that the needs, requirements and progress of pupils with SEN are met.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

84. Given the unpredictability of the environment in the Falkland Islands and the difficulty in detecting the specific mines laid during the 1982 conflict, landmine clearance in the Falkland Islands is particularly hazardous and presents significant technical challenges and risks. Since August 1982 the minefields have been clearly marked and have very little impact on the local community. When landmines do surface they are cleared by the Explosive Ordnance Disposal teams based on the Islands as part of their duties. These teams also give regular briefings to local groups, in particular youth groups and school pupils, to ensure that from a very early age children are aware of the dangers that landmines present, and what actions they should take should they encounter one.

85. It remains the case, as cited in the previous reports, that since 1996 there have been no refugees and/or illegal immigrants to the Falkland Islands.

86. With regard to armed conflict, the small Falkland Islands Defence Force ('FIDF') remains in existence. This is governed by the FIDF Ordinance 1991. The minimum age for joining is 17 and there are no plans to amend this.

87. For the most part the facts reported in the previous submission remain in place. When children are in conflict with the law there is no substantial change in the law and policies in this area from that last reported. There do

not exist, in the Falkland Islands, youth panels or any other alternatives to prosecution for children and young adults, apart from criminal cautions. The Code of Practice for Prosecutors paras.8.8 & 8.9 states that Crown Prosecutors must consider the interests of a youth when deciding whether it is in the public interest to prosecute, and that the seriousness of the offence and the youth's past are very important considerations to be taken into account.

88. There is no apparent drug abuse amongst children other than alcohol and tobacco. The Royal Falkland Islands Police together with the Customs Department work closely in preventing the import of drugs.

89. Further steps have been taken to prevent children from sexual exploitation and sexual abuse. A Multi Agency Public Protection Group ('MAPPA') has been established to monitor and undertake initial risk assessments of violent and dangerous persons and sexual offenders in the community.

90. A Consultant Psychiatrist specialising in the assessment and treatment of sex offenders visits the Island twice a year to assist in the planning for these individuals. Funding has been agreed in the 2006/07 training budget for professional HR20 training which will equip members of the MAPPA group and other significant community professionals to undertake risk assessments of convicted and non-convicted individuals.

91. There are no homeless children or young adults in the Falkland Islands. Many young adults continue to live at home or within their extended family circumstances. Extended family support is considerable within the Islands.

92. Training for professionals within the legal and justice systems has been limited, sporadic and fragmented. The funding for professional training is somewhat limited and thus, training is focussed more on individual research and case law rather than specifically focussed inputs. Training for social workers has been more systematic and inputs from NCH and representatives of the United Nations have ensured that all social workers are conversant with the requirements of the Convention.



**MONTserrat**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. The partial withdrawal of the reservations by the United Kingdom cannot be extended to Montserrat, until further adjustments to the legislative framework are made. Two new pieces of legislation with implications for the Rights of the Child have been enacted. These are the Education Act 2004 and a Family (Protection against Domestic Violence Act) (Cap. 5.05).
2. Draft Child Welfare and Protection, Status of Children, Adoption, Family Court, Juvenile Justice and Domestic Violence Bills have been prepared and are being reviewed by the Legal Department. Some level of law reform has been undertaken; the classifications of legitimate and illegitimate children, has been removed under the Registration of Births and Deaths Act (Cap. 6.13)
3. There is at present no National Action Plan on Child Protection in place but one is being formulated and it is expected to be implemented in 2007.
4. The evacuation plan of Disaster Management Co-ordination Agency (DMCA) includes children as part of the family. A key aim under this plan is to ensure that during evacuations no children are separated from their families
5. Community groups and church groups still support and promote the development of children. Two new groups have been recently established, the Montserrat Early Childhood Association (MECA) and the Parent Education Group (PEG).
6. A Human Rights Reporting Committee (HRRRC) has been established and currently all Human Rights issues come under its remit. The HRRRC is comprised of representatives from pertinent Public and Private Sector Agencies. Its main purpose is to prepare the reports required under each convention and make them available for public consultation.

**CHAPTER II: DEFINITION OF THE CHILD**

7. The Education Act 2004 has changed the maximum compulsory school age to sixteen years, and provides for early childhood education to children from the age of 1 year.
8. The proposed Juvenile Justice Bill would change the definition of Juvenile from a person under the age of 14 to a person under the age of 18 years of age.
9. The Juvenile Justice Bill would also change the age of responsibility from age ten, [under the Penal Code (Cap. 4.02)], to twelve years of age. If

however a child under the age of 14 commits an offence, the Crown must prove beyond reasonable doubt the child had the requisite criminal capacity.

### **CHAPTER III: GENERAL PRINCIPLES**

10. Section 36 of the Constitution expressly prohibits discrimination, and the Laws of Montserrat which relate to children and the services provided for children by the Government apply for the most part without discrimination.

11. Children of non-nationals pay for some health services, which are provided free for children of nationals.

12. The Education Act 2004 provides that no child who is eligible for admission to school should be denied such admission on discriminatory grounds. By virtue of this provision teenage mothers are now permitted to return to school.

#### ***Best Interest of the child***

13. There has been no change to this requirement under the provisions of the Juvenile Act, Guardianship of Infants Act, and the Adoption of Children Act. The best interest of the child is also a consideration of the Court when granting tenancy and occupation orders under the Family (Protection against Domestic Violence) Act (Cap. 5.05).

#### ***Respect for the Views of the Child***

14. A vibrant Youth Parliament on Montserrat is comprised of members who are democratically elected by the youth of Montserrat. At present the Youth Parliament interacts informally with the members of the Parliament, but plans are in place to develop mechanisms through which the Youth Parliament can participate directly in the policy making of the Government of Montserrat.

### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

#### ***Name and Nationality***

15. All children are registered under the provisions of the Registration of Births and Death Act (Cap. 6.13) within 21 days after birth.

16. Children born in Montserrat receive British Overseas Territory Citizenship in accordance with the provisions of the British Nationality Act 1981 as amended.

***Access to appropriate information***

17. All children in Montserrat have access to the services provided by the Public Library. The Library also provides a mobile service. It visits all the primary schools once a week. Some primary schools have their own library.

18. Television transmission from the local TV station and cable services are provided island wide. Through Cable TV services children have access to a wide range of programmes with instructional, educational and entertainment value. Internet Access and worldwide email is popularly received by all sections of the community. The primary schools have computers available for use by the students. The Secondary School has two computer labs and the Community College also has computer labs.

**CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

***Parental guidance and Responsibility***

19. Under the Education Act 2004, parents are responsible for ensuring that their children of compulsory school age attend school. Failure to do so may result in the parent being liable, upon summary conviction, to a fine.

20. There are no formal policies on Parenting, but community groups such as the Parent Education Group seek to enhance parenting skills through educational programmes, and The Montserrat Early Childhood Association (MECA) educates parents on the importance of early childhood stimulation and education to the total development of the child.

***Domestic Violence***

21. New domestic violence legislation has been enacted. The Royal Montserrat Police Force has developed a Domestic Violence Hotline. A Family Centre has been established where a Community Beat Police Officer and a Community Development Officer provide assistance to the victims of Domestic Violence.

***Punishment***

22. The Education Act 2004 provides that in the enforcement of discipline degrading or injurious punishment must not be administered. Under the Act corporal punishment can be administered but only in circumstances where no other punishment is considered suitable. Corporal punishment can only be administered by the principal, vice principal or a teacher appointed for that purpose and must be administered in accordance with strict guidelines.

## CHAPTER VI: BASIC HEALTH AND WELFARE

### ***Adolescent health***

23. Family planning and sexual health education form part of the curriculum in the Secondary School, and the Youth Peer Educators have undertaken island wide HIV/AIDS campaigns targeted at adolescents. Students at the Montserrat Secondary have access to school Counsellors.

### ***Survival and development***

24. In the period 1999-2004 infant, child and maternal mortality rates were nil and only two persons under the age of 18 died.

25. 100% of the population under five years of age is immunised against diphtheria, pertussis, tetanus, polio, TB, measles, mumps, rubella, hepatitis B and haemophilus influenza type B. Follow up immunisation is given to school children at specified ages.

### ***Disabled children and Children with special needs***

26. Children with Special Education Needs (SEN) are within the classrooms of the primary schools. A teacher trained in SEN works in the two Government primary schools with the most severe students. Another teacher is presently undergoing training. A small Special Needs Unit provides services for children with physical and mental disabilities between the ages of 5 – 15.

### ***Health and health services***

27. Under a Bilateral Health Care Agreement the United Kingdom accepts four patients a year for NHS medical treatment at UK expense. This covers the provision of health care only and all other expenses are the responsibility of the patient. Facilities in Montserrat include the 30-bed St John's hospital, which covers all routine health issues, x-rays and minor operations, plus four primary care clinics. Facilities are in place for emergency medical evacuation to Guadeloupe and Antigua.

### ***School Health programmes***

28. Health and dental services are provided free of cost to children in the primary health care setting. School Health checks are performed regularly with children referred to appropriate specialists, as necessary.

### ***Services provided to expectant/nursing mothers***

29. Health services for expectant mothers include free prenatal and post-natal care and referral, where necessary, to specialist services. Expectant mothers are monitored throughout pregnancy at district health centres and any deficiencies noted are corrected through nutrition supplement programmes and counselling.

***Social security and standard of living***

30. The volcanic crisis continues to have a profound effect on traditional social structures and support systems. Many families are struggling to get by and the Government of Montserrat has had to develop and fund substantial social welfare and social development services targeting vulnerable families with children on island. These services are implemented by the Community Services Department and Social Welfare Office. Expenditure for welfare and development services over period 2004-2006 has been approximately EC\$ 2.432m, EC\$ 3.230m and EC\$ 3.329m, respectively.

**CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

31. Education is free at Government nursery, primary and secondary levels. Both universal primary and secondary education have been achieved and the early childhood programme has expanded with every child from the age of two able to attend nursery school. There are two Government day care facilities, three nursery schools, two primary schools, and one secondary school. There are also two privately owned primary schools.

32. At age 11+, students automatically transfer to the Secondary School and are placed into ability streams. At the fourth form they follow an academic and/or prevocational programme depending on interest and aptitude. Students at this level follow the Caribbean Examination Council (CXC) syllabus and can choose from 25 subjects. Examination results are generally higher than in most Caribbean countries.

33. The Montserrat Secondary School curriculum offers a wide range of technical and vocational subjects including Visual Arts, Clothing and Textiles, Food and Nutrition, Agriculture, Woodwork, Technical Drawing, Electrical and Electronic Technology, Building/Construction and Hotel Trades.

34. The Montserrat Community College (established 2004) offers a growing number of examination subjects to students. The University of the West Indies School of Continuing Studies offers a range of courses. Students can also study for a degree programme by distance learning.

***Professional Development for individuals working with children***

35. The Ministry of Education (MoE) continues to implement the DfID supported 2002-2007 Education Development Plan (EDP). Areas of focus have been Literacy, Numeracy, Special Education Needs (Primary) and Information Communication Technology (Secondary). Training in the focus area has been through workshops facilitated by IOW practitioners for all teachers from daycare to secondary level. In 2006, two nursery teachers

successfully completed internship and graduated from the Community Early Childhood educators programme; another teacher is currently in training.

36. The Montserrat Early Childhood Association (MECA) plays a vital role in the community, providing relevant and pertinent information to the public in addition to conducting training sessions for private Early Childhood providers and summer workshops for young children. The professional development of teachers continues to be a priority and in-service training was provided for both new and practicing teachers at all levels of the system. In addition, inexperienced primary teachers visited other local schools to observe best practice and were in turn visited by their experienced counterparts.

37. The MoE recognizes the need for an alternative school/rehabilitation centre and has included provision for it in the 2007 Business Plan. The establishment of such an institution depends on budgetary allocations made to the Ministry.

### ***Cultural activities***

38. The Montserrat National Trust houses a small exhibition detailing the history of Montserrat. Various groups put on public performances of a range of artistic activities from choirs to plays. Exhibitions on topics such as crafts and photography are regularly organised. At the end of each school year students from all the Schools participate in an Annual School Arts Festival.

39. A new Cultural Centre, constructed in Little Bay, will be formally opened in early 2007. This building will help to enhance the cultural activities organized, and held in Montserrat.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

### ***Juvenile Justice***

40. Under the Juvenile Act (Cap. 2.11) a court when dealing with juveniles must have regard to the welfare of the juvenile; this must be so whether the juvenile is in need of care or protection or is before the court as an offender.

41. Unless charged together with a person who is not a juvenile, juveniles who commit offences are required to be tried in the Juvenile Court, which has special powers and procedures appropriate to children. The general public is not allowed in Juvenile courts and Juveniles are kept separated from adult offenders while at the police station and awaiting trial. There are no children or Juveniles deprived of their liberty in Montserrat.

### ***Drug Abuse***

42. Despite the fact that the possession and supply of Drugs is a criminal offence under the Drugs (Prevention of Misuse) Act (Cap. 4.07) the use of

marijuana seems to be on the rise among children in Montserrat. Very few convictions have been recorded however against juveniles due to the fact that many of the Juveniles who appear before the Magistrate are first time offenders. The Ministry of Education in conjunction with the Royal Montserrat Police Force run the D.A.R.E. program in the primary schools in the hope that this would educate children on the dangers of drug use.

***Refugee and internally displaced children***

43. Internally displaced families all have access to education and health services. Although only 76 people remain in temporary housing provided after the volcanic eruption of 1997, in general terms the provision of new housing units remains a critical issue despite some funding from the EU and DfID.

44. No data is available on the situation of families that have left Montserrat to take refuge in neighbouring countries or who have settled in the United Kingdom. There is however anecdotal evidence to suggest that a disproportionate number of young Montserratians who were displaced as a result of the volcanic activity and who have grown up in the UK are being sentenced to prison. A study to examine the veracity of this claim and its root causes has been proposed.

## PITCAIRN ISLANDS

### CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION

1. Pitcairn Island, with an area of approximately 4.5 square kilometres, is the only permanently inhabited island in the Pitcairn Islands Group in the South Pacific. Pitcairn has a population of less than 50 people of whom currently 9 are under the age of 18.
2. Pitcairn's budgetary aid allocation was \$2,255,669 in 2006-7 and is projected to be \$2,560,000 in 2007-8 (all figures in New Zealand dollars). Of this, over 9% is spent on education. A new school building was completed in September 2006 at a cost of \$240,000. The UK Government also pays for two New Zealand social workers to be stationed on the Island. (N.B. only one is currently deployed.)
3. In 1999, allegations of sexual abuse of children by older men on Pitcairn were made by a number of women. Most of the charges were historical in nature. The allegations were investigated by an experienced team from the Kent Police assisted by a child abuse specialist from the New Zealand Police. Following their investigations, charges of child sexual abuse were laid against 7 islanders and 6 off-islanders in 2003. 8 men were found guilty of serious child sexual offences. 5 are currently serving sentences in the island prison. 2 were given community service sentences (one completed his sentence in June 2007; the other will do so by the end of July 2007). One man was given a home detention sentence.
4. Pitcairn has no independent national human rights institution, as there are insufficient people to comprise one. Human rights however are enshrined in Pitcairn's legislation.

### CHAPTER II: DEFINITION OF THE CHILD

5. An individual comes of full age and capacity at 18 years of age. Before that age, he or she is a minor and requires the consent of a parent or person *in loco parentis* for marriage. Section 2(1) of the Interpretation and General Clauses Ordinance defines a child as a person under 15 years of age. The rule of English law which presumes that a child under the age of 10 is incapable of being guilty of an offence applies in the Island. The age of consent is 16 for girls and boys.

### CHAPTER III: GENERAL PRINCIPLES

6. The measures in force in the Island, which reflect the rights referred to in the Convention, do not discriminate between children on any of the grounds set out in article 2. The statutes of the United Kingdom Parliament which prohibit discrimination are taken to be statutes of general application which are in force in Pitcairn.



7. Following the secondment of New Zealand social workers to monitor the safety and welfare of the island children, a local law was enacted to serve as immediate legislative authority for this work. The Children Ordinance provided for a Children's Officer responsible for the overall welfare of children with unlimited power to take any protective action necessary to secure the safety of a child.

8. Places of safety for the immediate refuge of a child at risk have been designated by the Governor. If the Court exercises its power to place a child under the supervision of the Children's Officer that officer is to "visit, advise and befriend the child", help the child to secure appropriate employment or to bring the child back to the Court for the purpose of obtaining an order that he or she be committed to the care of a fit person, whether a relative or not, who is willing to take care of the child on an ongoing basis. If the Court finds that it is necessary to place a child in the care of some person other than his or her parent(s) or guardian, a contribution order may be made to pay maintenance to that other person on account of the cost and expenses involved.

9. The ordinance provides that nothing in its text should be construed as conferring on any parent or other person having the lawful care of a child the power to strike or assault that child by way of discipline or punishment.

10. The law of the United Kingdom which recognizes the sanctity of life applies equally to Pitcairn by reason of section 16 (formerly section 14) of the Judicature (Courts) Ordinance. Risk of suicide to children on Pitcairn is minimal due to close monitoring by social workers and the small size of the school and of the community itself. There have been no deaths of under-18s on the Island for many years.

11. There is specific provision in section 6(b) of the Adoption Ordinance requiring the Court to be satisfied as to the wishes of the infant who is the subject of the application for adoption, having regard to his or her age and understanding.

12. There are no child or youth organisations on Pitcairn due to the small number of children. However, there are plans to set-up a local branch of the Sea Scouts in 2008.

#### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

13. Under the Births and Deaths Registration Ordinance, a birth is required to be registered within two months.

14. Under the British Nationality Act 1981 of the United Kingdom Parliament, a child born in the Islands is a British Overseas Territories citizen if at the time of his or her birth the father or mother is a British Overseas Territories citizen or settled in Pitcairn

15. The island has no radio due to its remote location, but in late 2006 a communications project provided a limited television service, for the first time in the island's history. The same project also brought telephones to the island. The internet is available and most islanders have computers in their homes. These are used for general communications. There are no newspapers, although a newsletter, the "Pitcairn Miscellany", of social information is published by the Education Officer and is distributed to subscribers worldwide. There is a library containing books, magazines and videos to which children have access, in addition to a library in the Island School.

16. Under section 35 of the Justice Ordinance, unless otherwise specified, no child convicted of any offence shall be liable to imprisonment. There is no contrary provision in the laws of the Island.

## **CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

17. The common law recognises the responsibilities and rights of parents and this extends to adoptive parents by virtue of section 15 of the Adoption Ordinance. Section 12 of the Summary Offences Ordinance also makes specific provision to the effect that it is the duty of every person who has the custody of any child to provide such child with the necessities of life. Sexual offences against children are severely punishable in accordance with the Sexual Offences Act 1956 of the UK (as amended down to the date of this report), which is taken to be a statute of general application in force on Pitcairn. Sections 71, 72 and 73 of the Justice Ordinance empower the Court to require the fathers of legitimate and illegitimate children to provide maintenance for their children.

18. The Adoption Ordinance makes provision for the adoption of children and connected matters. There have been nine adoptions since 1954, the latest in 1979.

19. The father of four of the children was convicted of crimes and sentenced to 6 years in jail starting in early 2007. However, he is serving his sentence on Pitcairn, close to the children's mother and other members of the extended family who provide support. There are no other cases of separation from parents on Pitcairn nor are there any fostered children.

20. There is no known instance of the illicit removal or transfer of children from Pitcairn Island. Pitcairn has no refugees or asylum seekers. There have been no known cases of family re-unification.

## **CHAPTER VI: BASIC HEALTH AND WELFARE**

21. There are no children with disabilities on Pitcairn, nor are there any requirements for special schools or institutions.

22. There is a health clinic on the Island and a GP seconded from New Zealand. A new communications project will enable the provision of video-conferencing facilities. The Island has a trained x-ray operator and dental technician. Although he is currently serving a 3-year prison sentence, he is allowed access to the medical center, under supervision, to provide these services. Dental assistance has also been procured from the surgeons of passing ships

23. The government recommends that mothers come off the island to give birth for their own safety. But if they decide to give birth on the Island, as most recently occurred in March 2007, the Government ensures the presence of either a midwife or a GP with obstetrics and birthing experience for the relevant period. No records were found of deaths of under-fives but there was a child stillborn in 1989.

24. The doctor provides an immunisation programme.

25. The island is generally a healthy place to live with no known cases of infectious diseases or HIV/AIDS.

### ***Welfare***

26. Under the Social Welfare Ordinance, child benefits may be granted from public funds to the parents or guardians of children under the age of 15; and children between the age of 14 and 18 who are attending full-time education at the Island School. At present three families are receiving child benefits.

27. The UK Government provides for the presence of a social workers on the Island recruited from New Zealand. Her primary purpose is to ensure the safety and well-being of the Island's children. She is closely involved with the entire community and her community involvement includes support to the school by conducting holiday and after-school activities and teaching safety skills at the school. This enables her to monitor the children carefully and deal with any problems as they arise.

28. The social worker is currently re-drafting a "children's charter", in consultation with the island Council. This charter is based on the UN Rights of the Child and the Island families were involved in its formation. Following a recent review of the provision of social development services, there are plans to create a Social Welfare portfolio on the island Council. The job holder will play a key role in helping to develop appropriate programmes for children and other vulnerable members of the community.

### ***Standard of living***

29. Standards of living on Pitcairn are fairly high, albeit without many of the modern conveniences found in most Western countries and children thrive in the healthy environment there. The Government is committed to improving

facilities on the Island and a large programme of development work is underway which aims to provide, *inter alia* 24-hour wind-generated electricity, modern communications including television and telephony, improved access (work on an EU/DFID-funded breakwater project is expected to start in early-2008), and improved waste and sanitation facilities.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

30. Education is free and compulsory from the ages of 5 to 15 years. The Island has one school which has a current roll-call of five. The curriculum is based on the New Zealand curriculum and its aim is both to provide practical training to prepare pupils for the variety of practical tasks necessary to meet the needs of such an isolated community and also academic training to enable them to continue their education to higher levels should they so wish. Teaching is provided by a qualified schoolteacher recruited from New Zealand and correspondence courses are arranged for older children wishing to continue their education on the Island. Scholarships are provided by the Island Government for further education or training in New Zealand and two young Pitcairners are currently enrolled on higher education courses there. All children attend school and none is home-educated. A qualified islander runs a pre-school programme (there are two pre-schoolers). After-school and holiday activities are run by the social worker.

31. Handcrafts, which are one of the sources of income for the Islanders are taught by parents at home, who hand down their skills to their children.

32. The Pitcairn dialect (a mixture of English and Tahitian) is preserved and since 1996 has been taught by a locally employed teaching assistant. Sport and leisure activities involving children are informal.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

### ***Children in conflict with the law***

33. Section 35 of the Justice Ordinance provides that, unless otherwise specified, no child convicted of an offence may be imprisoned. Children may give evidence without taking an oath or making an affirmation.

### ***Children in situations of exploitation***

34. No Pitcairn children are in situations of exploitation. Children are expected to help their parents in the production of handicrafts, which is a family activity, less so in gardening. They also take part in fishing, a necessary part of the economy of the Islanders, but one seen as an enjoyable pastime.

**ST HELENA AND its DEPENDENCIES  
(Ascension and Tristan da Cunha)**

**PART I: ST HELENA**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. There are no specific human rights institutions or committees in St Helena. However by virtue of *The Queen and The Attorney General (ex parte Philip Lake) {Case No SC M 2/01}* The Human Rights Act 1998 applies in St Helena. Work is to be undertaken to enact a local Human Rights Act in the near future.
2. The Convention was ratified by the United Kingdom with a number of reservations in respect of itself and the dependent territories. When submitting our initial report in 1998 the view was taken that it would be premature to withdraw these reservations made by the United Kingdom in respect of St Helena. We are not aware of any change in circumstances that would warrant the withdrawal of these reservations.
3. Protection of children and young persons is specifically provided for under The Children and Young Persons Ordinance (CAP 83) which defines a child as a person under the age of sixteen years and a young person as a person who is between sixteen and eighteen years of age and The Child Care Ordinance (CAP 82) which defines a child as a person who has not attained eighteen years of age.
4. It is believed that the above measures substantially bring St Helena into conformity with the principles and provisions of the Convention but no further Ordinances have been enacted specifically to meet the provisions of the Convention since the last report.
5. As stated above the Human Rights Act 1998 provisions apply in St Helena and therefore such remedies as are available under that Act are available to children. No monitoring of the implementation of the Convention is undertaken as such. No separate dedicated national human rights institution exists on St Helena.
6. The multi-agency Child Protection Working Group (CPWG) posted a CRC charter in schools. Promotion has taken place through child protection presentations to classes of children and a limited adult audience. The Social Work Division's (SWD) endeavour is to use the media services, presentations, opportunities during public meetings and leaflet publication to make the principles and provisions of the convention widely known. New Horizons (NH) is in the process of setting up Youth Forums where staff will discuss matters such as the Rights of the child with the youth of St. Helena. It will also hold quarterly parental meetings where they can discuss issues on Child rights. One of the aims of the organisation is to work closely with the media to get information across to both adults and children. It works in conjunction with

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other organisations like the Police, Health Services, Education and Social Work in dealing with issues that can affect the basic Human rights of a child.

7. In providing a service for children with disabilities the Social Work Team advocate on their and their parents/guardians behalf. In doing so it is sometimes necessary to seek help from other agencies such as the Disabled Persons Aid Society who really give support. The Social Work Division has worked with the New Horizons and other church groups for young people in assisting to put together a Child Protection Policy and Procedures.

### CHAPTER III: GENERAL PRINCIPLES

8. The Social Work Division takes the lead in a non-discriminatory multi-agency Child Protection Working Group approach to child protection, childcare, guidance and family support. If the child has to go into voluntary care or care via a court order then a tailor-made care plan is formulated and implemented for each individual child.

9. All children have equal opportunity to study all subjects on the school curriculum and to participate in all lessons unless their parents feel that it is not in their best interests to do so.

10. In all the Social Work Division's dealings the best interest of the child is paramount. Mechanisms such as the welfare checklist, non-adversarial court process and achieving best evidence interviews are set up to achieve this. The Social Work Division works with the Police, Education department, Health and other relevant agencies to investigate and deal with cases of abuse and neglect. Protection and care plans are put in place to maintain and sustain the survival and development of the children.

11. The views of children are taken into account. Schools recognise the need for children to be able to voice their opinion and have implemented schemes to support this. All children on St Helena receive an education and have the right to attend school.

12. The Social Work Division works very closely with the Mental Health team in helping children and young people understand their emotions and actions. There have been short visits of a clinical Psychologist and a Psychiatrist, which has resulted in a more structured approach to helping young people.

13. There are no reports of xenophobic incidents and no evidence of xenophobia. The death penalty is not available to the courts on St Helena. All deaths on the island are properly registered and where appropriate, in relation to suspicious circumstances all deaths are properly investigated by the Police. Children are properly protected by the law on street violence, in

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addition Police visit the schools and New Horizons to deliver presentations and create awareness on the law and associated offending.

14. Schools have Whole School Behaviour Policies/ Anti-bullying Policies that set out procedures to follow in ensuring that they are protected against any kind of discrimination. Schools have systems in place for pupils/students to use should they feel they are not being treated properly and all are aware of these channels.

### CHAPTER IV: CIVIL RIGHTS AND FREEDOMS

15. The provisions of the Child Care Ordinance as in the previous report still apply. The Immigration Service of the Police Department retains data of all details of foreign visitors to the island. No persons are subject to torture or any other inhumane treatment including corporal punishment.

16. All pupils/students are made aware of their civil rights and freedoms through the Personal, Social, Health and Citizenship Education Programme. Topics covered include: Citizenship, Rights and Responsibilities, Political Literacy, Community Involvement and St Helena Law.

17. The Social Work Division (SWD) work with other agencies in providing support, guidance and advocating for children and young people. The SWD through the Child Protection Working Group takes the lead in investigating abuse or neglect and formulating and implementing plans that offer a better environment for the children.

18. The teenage pregnancy rate for St Helena remains low and has not changed over the last 5 years. The cause of this low trend could be because of falling birth rates due to attrition of people of reproductive age, good uptake of family planning services and improvement in sex education within schools. There are no cases of single parents who are homeless and cannot care for their child.

### CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE

19. As part of child services and generic social work parents/guardians are assisted in providing the right guidance and direction for their children. When the Social Work Division (SWD) work with children and families the primary responsibilities of the parents/guardians are brought to the fore. The SWD has also joined other agencies (police, education, health, New Horizons) in highlighting the responsibilities of parents/guardians through the media.

20. The Child Protection Working Group works with parents/guardians and children to avoid separation. However, when separation is suggested and the parents/guardians are not perpetrators of violence or abuse against the child then a voluntary separation is sought where everyone is in agreement to the

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decision made and the conditions that are set. This kind of separation would involve the child being placed in the Family Centre for a short period of time. This short period of time would include a detailed care plan which would involve rigorous monitoring, re-evaluating and reassessing. This would enable the Child Protection Working Group to decide whether the child should return home or not.

21. A court order for separation would be applied for if abuse or neglect puts the child at risk. An order of this nature would also be sought if separation was in the best interest of the child and all parties or one party was not agreeable to it.

22. Some parent(s)/guardian(s) leave St Helena Island for extended periods of time for the purpose of working overseas. They therefore leave their children behind with relatives. Before leaving the island the SWD meet with the parent(s)/guardian(s), the children and the person(s) who will be caring for the children). During this meeting legal documents are signed by all concerned. One of the agreements is for the departing parent(s)/guardian(s) to appropriately provide maintenance for their children. These documents are being revised to cover the holistic welfare of the child. There are only three social workers covering all aspects of social work on the island.

23. The SWD is responsible for a Family Centre that exists for the purpose of accommodating children deprived of their family. This will only be used if extended family or relatives cannot be found or if close friends who could provide a family environment are not available. If they are placed in the Centre then a care plan is put in place that is monitored and reassessed on a regular basis.

24. Adoption has not occurred for many years on St Helena. However, if it takes place then agencies would follow the letter of the law with the best interest and the views of the child to the fore.

## CHAPTER VI: BASIC HEALTH AND WELFARE

### ***Children with learning difficulties***

25. All children with some degree of learning disability are registered. There need to be an improvement in dedicated day care service to relieve family stress related illness and to work on behavioural modification programmes with the child so that they can be managed more effectively in their homes. A Challenging Behaviour Unit was set up in 2006, to accommodate young adults with severe challenging behaviours in a safer and more appropriate environment.

### ***Health and health services***

26. Mental Health services are available on the island which is run at



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community level and includes a weekly mental health clinic. Referrals are seen by a MH and CPN and a doctor as required. This service was supported by a visiting Psychiatrist and Clinical Psychologist in 2005. There is an increase in child behavioural problems, adults and young people with anxiety related disorders. A recommendation has been made for a resident psychologist on island for a period of two years during to process better management of clients and also to train resident social and health care staff. The national Immunization programme has been revised to include Meningitis C.

27. The Department for Employment and Social Securities (DESS) provide child allowance and child support for families in receipt of Social Benefits and parent(s)/guardian(s) who are unemployed. A child whose father is deceased and whose mother is has a low income is also eligible for child support. These allowances and support is provided until the child reaches the school-leaving age.

28. Childcare services and facilities in place for all children are: one crèche, private child minders, non-compulsory nursery education at each primary school.

29. Currently all pupils/students from Key Stage 2 are educated on protecting themselves against diseases such as HIV/AIDS and Sexually Transmitted diseases through the Personal, Health, Social and Citizenship Education programme. They receive education also on Personal Safety. The Education Department currently has available the services of a full time school nurse. A national Sexual Health Strategy includes action on increase awareness and education to young people on Sexually Transmitted Infections and HIV/AIDS. The Sexual Health Strategy Group is responsible for overseeing policy implementations with the different organisations including those that deal with young people.

### **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

30. There are currently 49 primary and 30 secondary teachers in St Helena, and 368 primary and 398 secondary pupils. Ongoing restructuring of the Department to bring on line an Adult and Vocational Education Service will enhance the variety of vocational courses on offer to students.

31. The New Horizons is one of the leading youth organisations on St. Helena. Since its inception in April, 2003 it has become very successful and attracts on average 25 members per session. It opens 3 evenings a week for 2 hours and Saturday morning for 4 hours. During School holidays the facility opens Mondays to Fridays provides Sport and Educational activities for all youth age 11 to 17 years of age. The New Horizons plays a leading role in dealing with issues that can affect the youth of St. Helena like smoking, drugs, alcohol and sex. In conjunction with the Police it launched a 'Prove It' card scheme on 7<sup>th</sup> July 2006 to try and stop the youth from purchasing alcohol in

licensed premises.

32. Along with other activities a youth games is organised once a year allowing the youth to participate in different sports. A fitness gym was opened on 31 July, which will hopefully encourage the youth of the island to lead healthier life styles.

33. All students have the opportunity to participate as fully as possible in activities through planned lessons, Lunchtime Clubs and Extra Curricular activities. The Social Work Division takes the lead in some cases by facilitating conferences that pull together relevant agencies that can put together a plan that will enable the children to move forward and develop holistically.

### ***Special educational needs and disability***

34. There are fourteen pupils with significant disabilities of compulsory school age, of which six are in primary schooling, seven pupils in secondary schooling and there is one placement at Barnview House, a day care/residential unit for the disabled. This pupil has profound disabilities and needs a high level of support. The placement was made in the best interests of the child, with Education, Public Health and Social Works Departments all being involved in the decision-making process. All pupils were assessed by an Educational Psychologist in July/August 2004. Recommendations made have been followed up and the pupils' Individual Education Programmes are regularly monitored and reviewed. Both primary and secondary sectors have their own Learning Support Centres which have well resourced teaching aids for pupils experiencing learning, behavioural and emotional difficulties. There is a Special Educational Needs Code of Practice, which outlines the fundamental principles, practices and procedures for special educational needs provision. Pupils with significant disabilities are integrated in mainstream schools as part of an inclusive system.

### **Underage Pregnancy**

35. These students leave school at the end of the half-term in which they have informed the school that they are pregnant. They may chose to continue their school studies in the Pupil Referral Unit until they feel unable to do so. They are given support for their studies from the school. The rate of underage pregnancy is approximately 1 per academic year. Students who have not completed their studies are normally allowed to return to complete their schooling on application to the Education Committee, following the birth of their baby.

## CHAPTER VIII: SPECIAL PROTECTION MEASURES

### *Children in conflict with the law*

36. The judicial process is operated through the Magistrates Court and the Supreme Court. Magistrates receive on-going training from specialised trainers commissioned from the UK. The Supreme Court is overseen by the Lord Chief Justice, a visiting qualified UK judge. Individuals are represented by the Public Solicitor an appointee with internationally recognised legal qualifications and a number of lay advocates. Prosecutions are overseen by the Attorney General and undertaken by the Crown Prosecutor both currently UK qualified Solicitors of the Supreme Court.

37. In the event children are deprived of their liberty and detained, there is a facility within the confines of the Prison for juveniles where they are separated from adult prisoners and in as much as possible any form of contact is avoided.

38. In the event the juvenile is sentenced to life imprisonment, the Prison Service is not capable of providing this type of facility as the prison is only designed to cater for short-term prisoners. A project has been submitted to the Foreign and Commonwealth Office for a purpose built prison, which will mean separate means and facilities for all types of prisoners including juveniles.

39. In addition, there is a Juvenile Diversion Scheme in place set up by the Police, Social Services and Education and designed to help Juveniles in avoiding re-offending.

40. There is no evidence of sexual exploitation on St Helena.

## **PART II: ASCENSION**

### **Introduction**

41. The Convention on the Rights of the Child was extended to Ascension Island on 7 September 1994.<sup>4</sup> This is the first occasion that Ascension Island has been required to compile its own report.

42. The Island of Ascension lies in the South Atlantic some 750 miles (1207 kilometres) north-west of the Island of St. Helena, with an area of 34 square miles (88.059 sq kilometres). Ascension has special characteristics from a habitation point of view. Residents are either on a service contract working for the various organisations or as accompanying families. The British Government in January 2006 determined that there would be no right of abode nor property ownership outside Government. There is no indigenous population and the above means that no permanent, settled population is currently envisaged by the British Government. This presents special challenges in complying with the provisions of the Convention.

43. Entry to Ascension and the right to remain on the Island is regulated by the Entry Control (Ascension) Ordinance<sup>5</sup> which states categorically that there is no entitlement for any person to land or remain in Ascension. Permission to do so is vested in the sole authority of the Administrator.

44. The population of Ascension is approximately 997 persons, which excludes visitors. This comprises of 75% St Helenians, 16% UK nationals, 8% Americans. There are 545 male and 306 female adults and 146 children.

45. In accordance with the provisions of the Education Ordinance<sup>6</sup>, schooling is compulsory for all children from the age of 5 to 15. However children are encouraged to stay in school beyond 15 years, to complete their examinations. There are also opportunities for children to be supported for further education in England. There is one school, namely Two Boats School, which is an 'all through' school which caters for children from Nursery through to 15 years. A separate Non Governmental Organisation playgroup called 'Ladybirds' caters for pre-school children on the island. This is run by a Committee of parents and chaired until recently by a trained Infant Teacher.

46. Other non-governmental service organisations such as Scouts, Cubs, Beavers, Girl Guides, Brownies, Rainbows and Ascension Explorers are actively involved with children.

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<sup>4</sup> Convention extended by the UK Government

<sup>5</sup> Entry Control (Ascension) Ordinance

<sup>6</sup> Cap. 167 - St.Helena law that applies by virtue of the Application of St. Helena Law (Ascension) Ordinance.

## CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION

47. The Attorney General of St Helena is also the Attorney General for Ascension Island. Ascension Island recognises that there is need for appropriate domestic legislative measures to give effect to the rights enshrined in the UNCRC, and is working with the assistance of DfID and NCH towards the development and enactment of an appropriate Ordinance which will provide the legal context for the protection of children and young persons.

48. Ascension Island does not have any domestic legislation that specifically caters for children, however, the laws of St. Helena in terms of the Children and Young Persons Ordinance<sup>7</sup> and the Child Care Ordinance<sup>8</sup>, applies. This legislation has not kept pace with modern practice or the requirements of the Convention and the National Child Protection Action Plan compiled with the assistance of NCH addresses this.

49. There are three Lay Advocates whose function is to provide free legal advice and support to persons who may have a need of such advice and support. They were complemented in carrying out those duties by a legal adviser whose two year post has been discontinued in September 2006. It is anticipated that he will shortly be replaced by a Crown Counsel. The Lay Advocates are able to enlist the assistance of the Public Solicitor based in St Helena.

50. The principles and provisions of the UNCRC Convention only became known on Ascension Island when the NCH/DFID launched an awareness programme on Ascension in December 2004.

51. Copies of the Convention and Reports will be made available for public viewing in the Resource Centre and the Administrator's Office.

## CHAPTER III: GENERAL PRINCIPLES

### ***Non-discrimination***

52. The Race Relations Ordinance<sup>9</sup> makes it an offence to discriminate against anyone on the grounds of colour, race, nationality, or ethnic or national origins. There is no Ascension specific legislation that deals with the subject of sexual discrimination.

53. There is no discrimination between the genders of children. Under the Births and Deaths Registration Ordinance<sup>10</sup> the responsibility rests with parents to register the birth of their child. For the period under review there were 34 births of which 15 were children born outside of a marital union. All

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<sup>7</sup> Children and Young Persons Ordinance Cap.83

<sup>8</sup> Child Care Ordinance Cap.82

<sup>9</sup> Race Relations Ordinance Cap 84 an enactment of St.Helena

<sup>10</sup> A St. Helena enactment applied to Ascension

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34 births were registered.

54. The school has an Equal Opportunities Policy in place and encourages staff and children to treat others equally and without prejudice. There are currently two children with a diagnosed disability attending school and who are fully integrated within their year group and are provided with additional full time one to one support.

55. Bullying in school is infrequent and rarely physical. Any bullying is promptly dealt with by the School under its Anti Bullying policy of aggressive prevention education.

### ***Best Interests of the Child***

56. There are no specific social work systems, policies and procedures in place to deal with any child protection concerns.

57. 13.1% of the annual budget is attributed to children through the School budget of which 5.14% is allocated to funding Further Education at Chichester College in the UK. Within the period 16.5% of the capital programme was allocated for both the school and community and supported the Resource Centre, IT equipment and teacher training initiatives. The school applies the English National curriculum and continuous efforts are made to improve the facilities offered.

58. Schooling for some children on Ascension can occasionally be interrupted for periods during term time when employees take their families offshore for contractual leave. Such leave could be for any period of up to six weeks. There is a reciprocal agreement between St Helena and Ascension that children of families taking leave may attend school on the respective Islands.

59. There are no known cases on Ascension of poverty or ill treatment, including physical, mental or sexual abuse. The National Child Protection Action Plan has a series of actions to reduce risks and increase awareness.

### ***The right to life survival and development***

60. The child mortality rate for Ascension Island is exceptionally low with no deaths being recorded during the last decade.

61. Free medical and dental care is available to children. The general health of children on Ascension can be described as robust. The environment is regarded as secure and safe. There are no known cases of malnutrition and all children receive or are offered the recommended immunisation and health checks..

### ***Respect for the views of the Child***

62. There is a School Council, which is a students' representative body that provides a forum for students to discuss matters and to put forward

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suggestions, recommendations and requests. In addition children are encouraged through Personal and Social Education to develop their thinking on a range of issues that affect them with Teachers providing the relevant factual support.

### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

63. Children born on Ascension are eligible to be registered in accordance with the Registration of Births and Deaths Ordinance and would assume the nationality of the parent. It has recently been recognised that children born to St Helenian parents on Ascension Island do not acquire any St. Helenian status automatically and would have to apply for permits for a visit there. This issue is being considered by the St Helena Government under a review of its immigration legislation and processes.

64. The Children and Young Persons Ordinance makes provision for dealing with incidences of cruelty to children. There are no known cases of these circumstances on Ascension, or of reported abuse and neglect.

65. There is no known asylum seeking and refugee children or children belonging to indigenous and/or minority groups on Ascension.

### **CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

66. Parents have a legal duty to ensure their children have an education in accordance with the Education Ordinance. The school maintains records of all children on school roll.

67. There have been no cases of adoption for the period under review and no experience of fostering or illicit transfer and non-return of children.

68. Government itself has a responsibility for the welfare of children. The positive feature of a small community means that most people living on Ascension know each other and the children tend to be well known. They are readily accepted socially as part of the community. There are no children's homes or institutions concerned with the welfare of children.

### **CHAPTER VI: BASIC HEALTH AND WELFARE**

69. All resident children receive free on island dental, medical and health care. There is one 9 bed hospital situated in Georgetown that is well equipped to provide good quality primary and secondary medical care for the Island. The service is managed by a Senior Medical Officer; and supported by an Anaesthetist, nursing and administrative staff.

70. There is no specific Social Security or child care service on Ascension.

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71. There are no known cases of poverty, malnutrition, malaria, tuberculosis or HIV/AIDS in any of the population on Ascension. Until last year all children underwent a health test between the age of 13 and 14 and were given the BCG vaccination. This has now been suspended on the advice of UK health guidelines.

72. There is no resident Ophthalmologist but annual testing services for children is scheduled around May of each year.

73. Counselling and guidance on sex education, health and wellbeing (including obesity, alcohol and drugs) is available to children through the schools in collaboration with the health services.

74. The Police School Liaison Officer provides information to children on issues related to road safety, drugs, underage smoking and sexual offences.

### **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

75. Education on Ascension is compulsory – see paragraph 8; and is free to all children. A broad and balanced curriculum is delivered by fifteen teachers to a total of 105 children of which 56 males and 49 females. There is also Nursery provision for those children who reach the age of three before 31 August in any year.

76. Children are taught to the highest possible standard within the constraint of a relatively small, “all through” school.

77. The majority of children in Two Boats School are of St Helenian origin with a small number of UK origin.

78. In September 2004, an Inspector Adviser for the Service Children’s Education conducted a 3 day visit to report on key recommendations to support and sustain improvement in the primary years.

79. Some of the report’s main findings were that the school provides a safe, secure and welcoming environment for all children. The quality of teaching was reportedly variable, and standards in the primary were below the average for England in English and Mathematics.

80. Since this finding, teacher training has been expanded locally and in the UK, with resultant improvements in standards.

81. In accordance with the English National Curriculum, children are expected to be within Level 5 for SATS results at the end of Year 9 (14 year olds). As well as statutory tests, pupils were entered for GCSE Examinations. Most children took nine subjects and the results were very encouraging. They continued the year on year improvement and this is shown in the table below. Given the small year group sizes the percentages for 5A\* - C grades show big fluctuations. The overall trend in achievement at Key



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Stage 4 is upwards.

	2002	2003	2004	2005
<b>No of Students in Cohort</b>	5	13	8	6
<b>% of pupils gaining 5+ A*-C Grades</b>	60	38	50	83
<b>Average No of entries per student</b>	6.6	7.4	8.6	8.3
<b>Average points score per student</b>	34	36	39	42

82. Children are also encouraged to make use of the wide range of sporting activities on offer as part of the curriculum and also the use of the educational resources available on the Internet. Internet access is monitored by appropriate filtered service. This is also supported by an Internet Code of Conduct Policy.

83. Government also provides funding for selected students who wish to study for 2 year A Levels courses or 1 or 2 year vocational courses at Chichester College in the UK. For the period under review government has funded 11 students with a further 5 taking up scholarship from September 2006.

### CHAPTER VIII: SPECIAL PROTECTION MEASURES

#### ***Children in situations of emergency***

84. There are no known cases of children seeking refugee status, involved in armed conflict or child victims on Ascension Island.

#### ***Children involved with the system of administration of juvenile justice***

85. In the Administration of juvenile justice, the Court is limited in its sentencing options as the infrastructure to provide probation and community services, which are appropriate penalties for juvenile sentencing, is not available. There is no Probation Service or Probation Officer. There are no juveniles detained on island.

86. Under the Ascension Magistrates Court Ordinance there is provision for the protection (basically from media or other public identification) of a juvenile appearing in a Juvenile Court.

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87. For the period under review, 14 juveniles received formal cautions for underage smoking and 2 for criminal damage. The Juvenile Smoking Ordinance<sup>11</sup> prohibits smoking by persons under the age of 16 years.

### ***Children in situations of exploitation***

88. Cases of sexual exploitation and other forms of exploitation of children are not known on Ascension. Since 2002 there were three cases brought to Court involving three children between the ages of 14 and 15 who had been involved in unlawful sexual activity with an adult.

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<sup>11</sup> Juvenile Smoking Ordinance, Cap 58 of 1950 revised edition of the Laws of St.Helena.

**PART III: TRISTAN DA CUNHA**

**Introduction**

89. Tristan da Cunha is a small island in the South Atlantic, which is frequently described as the “most remote inhabited island in the world”. Its sole settlement, Edinburgh, is set on a sloping plain below the island’s plateau which rises about 2,000 ft.

90. The island has a total population of about 268 people, (2006) of which 40 are children under the age of eighteen years.

91. The island’s infrastructure includes a health and education service. Despite the absence of a formal social care system, social service related issues are incorporated under health services. There is full employment on island, and hence the island does not have a social security system. Security is provided by one full time policeman, and compulsory education is available at the St. Mary’s school to children from age 5, until the current school leaving age of fifteen years. The Island Council has agreed (2005) that the age of school leaving should be extended to sixteen years or beyond.

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

92. Tristan da Cunha does not have any local children’s Ordinances and the presumption is therefore that the Laws of St. Helena in the first instance applies. This drafting of a local Ordinance is currently being addressed, and the draft legislation is expected to be available in early 2007.

93. There are no legal advisors or advocates on the island, and such specialist services if required, would have to be sourced through the office of the Attorney General which is based in St. Helena.

94. Despite the limited infrastructure, technical capacity and safeguarding resources on island, Tristan da Cunha has taken initial steps to develop a National Child Protection Action Plan for the children of the Island. A Safeguarding Board has been established in 2006, with responsibility for promoting the rights of children and, to develop as practicable, those systems, procedures and programmes which will improve the protection of children.

**CHAPTER III: GENERAL PRINCIPLES**

95. The Race Relations Ordinance of Tristan da Cunha (1996) establishes that it is an offence to discriminate against anyone on the grounds of colour, race, nationality or ethnicity.

96. Whilst this legislation omits provisions against sexual discrimination, the practices on the island are informed by gender stereotyping and

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socialization practices. Hence, on leaving school, boys tend to enter into the manual jobs of fishing, agriculture and public works; whereas the girls and women who work outside the home are likely to be engaged in traditional and professional care-giving roles (nursing, teaching, childcare) and factory work.

97. The small size of the community encourages inclusion of all members into the society. Provision is therefore made for all children (including the one child with disabilities), to attend school and participate fully in the community. In two recent reform initiatives that impact on the protection of children, the views of children both of school age, and those fifteen to eighteen year olds in the work place, have been sought and taken into account in design of appropriate responses. These initiatives are specifically the NCH/DFID Child Protection Programme and the CLS Educational Needs Analysis.

### CHAPTER IV: CIVIL RIGHTS AND FREEDOMS

98. The Children and Young Persons Ordinance of St. Helena applies to its dependencies with respect to provisions for the protection of children from cruelty, inhumane and degrading treatment.

99. There are no known reported such cases of cruelty to children in Tristan da Cunha. However, corporal punishment remains the practical exception. Whilst the judicial system and educational system acknowledges corporal punishment as illegal, parents are allowed to use corporal punishment on their children within the reasonable limits of chastisement.

100. There are no asylum-seeking children or children belonging to indigenous or minority groups in Tristan da Cunha. There are no children living in poverty on island, and for those children born out of wedlock, there is no stigma or discrimination associated with birth status.

### CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE

101. While the government of Tristan acknowledges responsibility for the welfare of children on the island, no child is under a care order or living in an alternative setting. There are no foster care services, institutional or residential care provisions for children on this island. There are also no known or reported cases of abuse or neglect, or adoption of children over the reporting period. Child abduction and illicit transfer of children are not issues reported to have occurred on this island.

102. Because of the close family relationships, and social networking among the islanders, children exist in this small community in a protected environment. Programmes in parenting and direct Child Care Services are not currently available to families but there is openness by the Health Services to consider such provision if the need exists.

## **CHAPTER VI: BASIC HEALTH AND WELFARE**

103. Children in Tristan da Cunha have access to free medical and dental care. Special care or assistance for the one child on island with learning disabilities is not provided.

104. There are no children on island affected or infected with HIV/AIDS, neither are there any cases of teenage pregnancy, sexually transmitted infections among adolescents, mental health problems, drug or alcohol abuse among children and the youth.

105. Health services on island are provided by one medical doctor, assisted by 6 specialty nursing staff. A visiting dental team service is available every 18-24 months to deliver dental care to the residents.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

106. Free and compulsory education is provided to all 33 children between the ages of 5 and 15 years, enrolled at the St. Mary's School. A playgroup on island, offers daily early learning experiences for the 3-5 year olds.

107. The school is staffed by 6 teachers, 4 of whom have received some formal training. However, none are in possession of a professional qualification from the United Kingdom. Whilst children are tutored towards taking General Certificate of Secondary Education (GCSE) in Mathematics and English subjects, available data on performance since 1989, suggests that academic performance is poor. Higher education is generally not available to students and the prior student enrolment arrangement at Denstone College in the UK and Prince Andrew School in St. Helena, for pursuing education overseas after reaching 16 years of age has been discontinued.

108. The guarantee of a job, irrespective of academic achievement may provide some reasoned explanation as to lack of motivation to achieve excellence academically. The Government of Tristan is examining the education system on island, with a view towards developing a long term strategy for educational provision.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

109. This island does not have children involved in armed conflicts neither is there any record of arrests of children under the age of 18 years.

110. There are no secure facilities on island for separate detention of children from adults. Should the Administrator acting in his capacity of magistrate, be required to place a child under detention for committal of an offence, provision is made (under the existing legislation of St. Helena) that he

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may direct a child to be placed in the residence of a person deemed as “fit”.

**TURKS AND CAICOS ISLANDS**

**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. The Department for Social Development is charged with responsibility for child protection, and works closely with other government agencies such as the Police, Judiciary, Education, Health, and with non-governmental agencies and church-based organizations in empowering families and protecting children from all forms of abuse. As yet, there are no independent national human rights institutions in the TCI, but legislation is being drawn up to establish a Human Rights Commission, and a Human Rights Reporting Committee.

2. The TCI National Monitoring Committee on the Rights of the Child was revived in June 2006 after a two-year break, and was tasked with drawing up this report. It comprises representatives from the following Departments: Social Development, Education, Gender Affairs, Health, Immigration, youth, Labour, Governor's Office, Attorney-General's Chambers, Economic Planning and Statistics, and Physical Planning.

***Public Awareness***

3. Since the Convention was extended to the Turks and Caicos Islands in 1994, there have been a series of public education programmes conducted throughout the various communities in the Turks and Caicos Islands. These programmes have taken the form of pamphlets, radio programmes, public meetings, and seminars/workshops for stakeholder groups, including the police, social development, parents and teachers and particularly students.

***Harmonising the Law***

4. The Turks and Caicos Islands has embarked on a number of initiatives that will lead to some level of harmonization of the national law and policy with the Convention. One such initiative is participating in the Organisation of Eastern Caribbean States' Family Law and Domestic Violence Reform Project, which was aimed at harmonising the existing legislation in the OECS Member States relating to family and domestic violence in keeping with basic human rights and relevant International Conventions, which were ratified by the OECS Member States including the Convention on the Rights of the Child.

5. A Green Paper on family law reform is near completion and has the input of all representative levels of the Turks and Caicos Islands society, in addition to all the countries that are part of the reform project. Thus far, six bills have been drafted and, following additional public consultation, this model legislation is due to be taken before Cabinet this year, once the final versions are supplied by the OECS Secretariat.

## CHAPTER II: DEFINITION OF THE CHILD

6. In the Turks and Caicos Islands there is no standard age of majority in law. This was recognised as a deficiency in the law, and a standard age of 18 years is proposed in the draft model legislation being finalised as part of the OECS/TCI Domestic Violence law and Family law reform project. Examples of age restrictions in the Turks and Caicos Islands are given in the full report.

### ***Employment***

7. Everyone over the age of 16 may take employment. Anyone under the age of 16 must have parental or guardian consent.

### ***Child abuse***

8. The Department of Social Development plans to establish multidisciplinary teams to monitor and support the management of child abuse in the Turks and Caicos Islands. There will be national committee and an island team. Additionally, the Department plans to implement a Child Abuse Hotline and a Child Abuse Register.

### ***Voluntary testimony in court***

9. In principle, any child can be asked to testify in Court. In situations where children are called upon to give evidence, they are accompanied in Court by a parent, guardian or social worker. Additionally, where applicable, the Judge and attorneys disrobe and the Judge sits at a table when children are giving evidence, creating a child-friendly environment. Legislation is currently being drafted to provide for juveniles to give evidence by way of a video link so that they do not have to sit in the courtroom itself;

### ***Deprivation of liberty***

10. Section 5 of the new TCI Constitution (Annex 3) protects the right from arbitrary arrest or detention.

11. The Young Offenders Punishment Ordinance (Cap.27) states that “notwithstanding the provisions of any Ordinance, a child, upon conviction by any Court of any offence, shall not be sentenced to imprisonment, but in lieu thereof, if the Court considers that no other sentence or order is appropriate, shall be sentenced to be detained for such term, not exceeding three years, as the Court may specify, in such place and subject to such lawful custody. At present there is no juvenile detention centre for young offenders in the Turks and Caicos Islands. Juvenile offenders are sent to specialist centres overseas, primarily in Jamaica, pending the construction of a new dedicated facility for this purpose in Turks and Caicos Islands.



***Consumption of alcoholic and other controlled substances, and cigarettes***

12. It is illegal to give or to sell alcoholic or other controlled substances to a child. Despite this legislation, a study conducted by the Drug Unit in 2005 showed that alcohol abuse is prevalent among school children. There does not appear to be any specific provision in law relating to children and smoking. But the practice is prohibited, and smoking is not prevalent among school children.

**CHAPTER III: GENERAL PRINCIPLES**

13. There are two resident courts in the Turks and Caicos Islands that address matters concerning children: the Magistrate's Court and the Supreme Court. The courts ensure that children within their respective jurisdictions receive the care, guidance, and control conducive to their welfare. Where children are ordered to be removed from the custody of their parents, the court seeks to provide them with the high-quality parental care.

14. The Department of Social Development is charged with responsibility for child protection. The Ministry of Education, Youth, Sports, Gender Affairs and Culture also promotes several programmes designed to meet the needs of children for education, freedom of expression and association - including US\$15 million in scholarships given in 2005-2006; annual youth day events promoting debates and discussion forums; and the Cadet's youth disciplinary programme carried out in conjunction with the Police Force.

15. The Ministry of Health meets the needs of children's health care by providing community medical and primary health care clinics including pre-natal and post-natal care, counselling and immunisation programmes at the clinics and in schools. Under the Medical Fees Regulations, medical treatment at these clinics is free for children.

16. The best interests of the child are taken into consideration in most TCI laws. The term 'the child's welfare' is commonly used, and this is synonymous with the best interests of the child. When dealing with a case, the Court usually requests a social inquiry report to be conducted on the family, in order to gather relevant information that will help to determine what would be in the child's best interest.

***The right to life***

17. Section 2 of the Constitution protects the right to life – "Every person's right to life shall be protected by law. No person shall be deprived intentionally of his or her life.". Abortion is illegal in the Turks and Caicos Islands.

***Respect for the views of the child***

18. The laws of the Turks and Caicos Islands provide for the views of children to be respected. Children are provided with the opportunity to give their own views on matters affecting their lives. Their views are taken into consideration when making critical decisions, thus upholding the Convention.

19. Under TCI law, the above rights are extended to all children of whatever racial group. However, in a country where the indigenous population is now outnumbered by non-belongers, who have migrated (many illegally) predominantly from neighbouring Haiti, there is anxiety about the levels of immigration into the country. Consequently, the sheer number of immigrants has put pressure on education, health and other services, and can be a source of social tension between the communities. The TCI government is committed to ensuring that its responsibilities to every child resident in the country are carried out appropriately under the law, but in practice this is not always enforced.

**CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

20. The Registration of Births, Marriages and Deaths Ordinance (Cap.87) requires for the registration of every birth irrespective of nationality.

21. Sections 19 and 20 of the Adoption Ordinance provide for a change of name on the adoption of a child.

22. The Register of births and the Adopted Children Register do provide information to the public at large on the information filed in relation to each child born or adopted in the Islands thereby allowing a person to trace his or her personal history later in life. The provisions of both Ordinances also allow for a child to retain his or her identity.

23. There are no restrictions in the Turks and Caicos Islands on freedom of expression of any person, including children. The Constitution makes provision for the protection of freedom of expression of persons in the islands.

24. Children in the Turks and Caicos Islands have access to information and material from a range of national and international sources, via schools and public libraries, print and electronic media, and via the computer and internet. Public libraries provide reference and loan material for children, and subscribe to a number of publications of interest to children in various age groups. Additionally children have access to computers in all schools and public libraries.

25. Every person in the islands has the right to freedom of thought and conscience and religious freedom subject only to the limitations prescribed by law as recognized by article 14 and subject to the right of parents to provide guidance. The Education Ordinance states that “no person shall be denied

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entrance to any public school on account of the religious persuasion, race, social status or language of such person or his parent”.

26. There are no restrictions on the rights of the child to freedom of association and peaceful assembly. This has been fully incorporated into the Turks and Islands Constitution.

27. The Constitution provides protection for the right to privacy.

28. The Constitution provides protection of the right against being “subjected to torture or to inhuman or degrading treatment or punishment” under section 3.

### **CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

29. The rights and duties that parents have derive from their responsibilities under the common law of England as applied to the Turks and Caicos Islands in 1799. The primary principle is the welfare of the child which means to act in the best interests of the child.

30. The Department of Social Development provides parental guidance in the form of counselling, public education programmes and workshops for parents. All these initiatives are geared towards educating parents on parenting and enhancing parenting skills.

#### ***Parental Responsibilities***

31. Provision is made through the Department of Social Development to assist parents who may not be able to adequately meet the needs of the child. Some of these provisions include provision of school supplies, assistance with rent, and paying of school fees in some instances.

#### ***Separation from parents***

32. The laws relating to child protection only permit children to be removed from their parents by an order of the court. Children placed outside the home environment are usually placed with family members or in foster care. When there is no family member willing and able to provide care and protection to a child and no foster parent is able to care for that child then he/she is placed in Nissi’s Home. This home has been recently opened and is run by a non-governmental organization with subsistence from the Government of the Turks and Caicos Islands. The Department of Social Development monitors this home.

33. The foster care system is not properly structured and requires some level of organisation. There has been no formal training or screening of foster parents. However, plans are being made to address this problem in 2007.

***Recovery of maintenance for the child***

34. Section 12 of the Domestic Proceedings Ordinance makes provisions for maintenance to be paid for children by either parent.

***Illicit transfer and non-return***

35. The Turks and Caicos Islands is not a party to any international convention dealing with the illicit transfer and non-return of children. In such cases, the Police Force and the Social Development Department rely on diplomatic relations between countries through the Governor's Office.

***Periodic review of placement***

36. It has not always been possible for social workers to conduct periodic reviews when children are placed in foster care. The foster parents and guardians of these children tend to have a false image of the role of the social worker in placing children in their care, which can lead to a breakdown in communication and a shortage of foster parents. The Department of Social Development has a written policy directing social workers to conduct quarterly reviews on all cases.

**CHAPTER VI: BASIC HEALTH AND WELFARE**

37. At present there are two hospitals, which are accessible to all children living or visiting, they provide medical, obstetric, paediatric as well as other specialised services. Each island of Turks and Caicos has at least one health centre. There are a total of eight health centres in the public sector and 7 private clinics. Each health centre has at least one scheduled antenatal, postnatal and Child Health Clinic per month depending on the population of individual islands. All the islands have a resident nurse/midwife, a resident or a visiting Public Health Nurse, a resident or visiting paediatrician, a resident or visiting Obstetrician and a resident or vis access to its services before six weeks. Post discharge from hospital all postnatal mothers and babies are seen within the first two weeks either by home visits conducted by the Public health Nurse or by the client visiting the health centres. The Gynaecologist sees all postnatal mothers, and the Paediatrician sees all infants in the postnatal period. 99% of all pregnant women access antenatal care.

38. The Expanded Programme for Immunisation has played a key role in the reduction and maintenance of a low infant and child mortality and morbidity. The Turks and Caicos Island has seen its long-term impact with no incidence or deaths from any of these diseases under surveillance. Immunization coverage for the past years has been maintained at 100% for the < 1 year population and 95% for the 12-23 months population.

39. Postnatal mothers are educated on various topics at their homes as well as when they visit the clinic about environmental and personal hygiene

for mothers and infants, accident prevention, diet, breastfeeding, and immunization, via oral presentation as well as audio-visual presentations. Mothers are encouraged to exclusively breastfeed for at least 4 months or up to 6 months, which is ideal. Emphasis placed on the advantages of breastfeeding for infants and mothers with emphasis on prevention of Gastroenteritis and obesity.

40. There is an active School Health Programme in Turks and Caicos Islands. The Public Health Nurse and her team visit each school year. At the schools, immunizations as required, rapid inspection of each student and health education on previously identified topics are carried out.

### ***HIV AIDS***

41. HIV/AIDS continues to be a challenge for the Turks and Caicos Islands. The HIV/AIDS epidemic in the TCI is considered to be a generalized one with the main mode of transmission being heterosexual. The first case of AIDS was discovered in 1985. From that time to 2005 there have been a total of 732 HIV positive cases reported in the national database. A draft policy on HIV/AIDS was completed by the National AIDS Program in 2005 and is currently to be presented to Cabinet for ratification. The Policy re-affirms the Government's commitment to the fight against HIV and AIDS and is intended, among other things, to promote a more supportive environment, and harness the energies of a broader spectrum of sectors and agencies in the National Response.

### ***Disabled children***

42. The Special Needs Programme in the Turks and Caicos Islands is complemented by a strategic plan, which charts the way forward for quality service delivery for persons with special needs. The Social Development Department has conducted several public awareness and education programmes throughout various communities in the TCI and through the media to sensitise the public to the needs of people with disabilities. However, TCI society is generally not very sensitive to the needs of the disabled, and makes very little provision for special facilities to help those who are not able bodied.

43. Recreational and respite services can be very beneficial towards the total development of clients but it is hindered by lack of resources in particular inadequate manpower and funding. The Ministry of Social Services is putting the necessary machinery for the full operation of all centres, which will promote these services. But it has been noticed that some clients are regressing.

### ***Social Security and child care services and facilities***

44. TCI law provides for the care and protection of children (The Juveniles Ordinance). Any police officer or supervisor may bring a juvenile in need of

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45. care or protection before a Juvenile Court. Where, as a result, a juvenile has been placed under the supervision of a Supervisor, that officer shall, while the order remains in force, visit, advise and befriend him and, when necessary, endeavour to find him suitable employment, and may, if it appears necessary in his interest so to do, at any time while the order remains in force and he is under the age of sixteen years, bring him before a Juvenile Court.

46. The Government of the Turks and Caicos Islands provides some assistance to parents and guardians in the performance of their child rearing responsibilities through the Department of Social Development. Although these benefits are means-tested, great care is taken to ensure that the eligibility terms are non-discriminatory and non-stigmatizing to the families concerned. These programmes include: social enhancement aid; home help; childcare - including foster care, adoption, early childhood education; and welfare grant.

### ***Early Childhood Education***

47. All though there are no public pre-schools on the island, children of parents or guardians who are unable to pay for this service have the right to benefit from this service and other facilities. The Department of Social Development assists parents with paying school fees for early childhood education.

### ***Foster care***

48. Children who are in need of care and protection are usually placed with relatives or with a foster parent. The Department assumes all financial responsibility for the children. A weekly income is provided to the caretaker for the upkeep of the children, and every year the Department purchase all school supplies including books and uniforms for the children.

### ***Welfare Grant***

49. The Department of Social Development also assists parents and guardians in providing basic amenities for children. These may include rent, electricity, furniture or any other item that will make the children comfortable.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

50. The Ministry of Education has adopted, and extended, the UNESCO International Commission on Education for the twenty-first century

51. Several cohesive instruments direct education in the Turks and Caicos Islands. The Education Ordinance (1989), the Education Regulations and a

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dated Five Year Education Plan, for example, have guided the development of an *'Education For All Policy Document'*. Elements of the Education Policy Document are already in effect, and other elements are being incrementally implemented. The policy document, for example, makes provision for all children, especially within the compulsory school age - four to sixteen years - to be provided with pre-primary, primary secondary and tertiary level education that is consistent with regional and international standards. For the most part, education is provided through the public school system. However, on islands such as Grand Turk and Providenciales where economic activity has shifted demographic trends, student enrolment figures have outstripped seating capacity in institutions of learning. In such instances, the Ministry of Education has voluntarily subsidised children's education in private schools, thereby ensuring that no child is deprived of quality education.

52. In an effort to lower illiteracy rate, a Literacy Programme has been implemented and is managed at the departmental level by an Education Officer, and by teachers at the school level. In an effort to keep students abreast of scientific and technical knowledge, students are exposed to Information and Communication Technology (ICT) from as early as the primary school level. All primary schools have computer laboratories and eight of the ten schools have a Computer Teacher.

53. At the secondary level, students are exposed to a general education programme for the first three years. At the commencement of the fourth year, they are given the option of selecting educational clusters (Arts; Business; Science; Technical/Vocational; Careers Development) that are in tandem with career choices. Again, ICT is offered as a compulsory subject, and as an option within the Business Education and Careers Development Programmes. Guidance and Counselling programmes, managed by trained Guidance Counsellors, services are fully established at the four secondary schools.

54. While corporal punishment has not been abolished, it has to be authorized by the Minister. In practice, the Minister has not authorized any, so it should not take place.

### ***Rest, leisure, recreation and cultural and artistic activities***

55. The Education Policy Document recommends that 'all schools should have access to outdoor track and field facilities either for independent use or shared by another school'. It further recommends that 'the Ministry of Education should train several persons as coaches in various sporting activities with a view to having a cadre of local coaches available for national sporting events'. The recommendation has already been implemented as five young men, through the financial support of the Ministry of Education, are currently pursuing teacher education programmes in Physical Education. Students are encouraged to engage in cultural activities, through clubs and societies, school concerts, television programmes, and co-curricular and other extra-curricular activities.

**CHAPTER VIII: SPECIAL PROTECTION MEASURES**

56. There are currently no children applying for refugee status in the Islands. Any applications would be dealt with under the Immigration Ordinance, and in accordance with the UN Convention on Asylum. Children, specifically from Haiti, regularly arrive by sea on sloops with their parents or relatives, and are processed as unauthorized arrivals. The practice is to detain unauthorized arrivals for a short time (generally anywhere from 36/48 hours and up to a week) while they are processed. They are then generally returned to their country of origin by air at TCI Government expense. Men and women are detained separately. Children remain with their parents, or in separate accommodation.

57. There are no children who have been in armed conflict on the islands.

***Training for Professionals dealing with Juvenile Justice***

58. Continuous training workshops have been conducted on the Convention as well as other relevant international human rights conventions for various professionals dealing with children including the police, teachers, social workers etc.



<b>ISLE OF MAN</b>
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**CHAPTER I: GENERAL MEASURES OF IMPLEMENTATION**

1. The Committee expressed concern in paragraph 6 of the Concluding Observations that reservations to Articles 32 and 37(c) of the Convention still apply to the Isle of Man. Withdrawal of the reservation to Article 32 will be considered shortly. However, it is not presently envisaged that it will be possible for the reservation to Article 37(c) to be withdrawn.

2. With reference to the Committee's comments in paragraph 9 of the Concluding Observations the Isle of Man Government would note that as the Island is internally self-governing it, rather than the State party, is responsible for any law review and reform in the matters relating to the Convention in the Isle of Man. However, since the initial report there has been a significant updating of the legislation that affects the Island's children and young people. This includes:

- Adoption (Amendment) Act 2001 - *This Act made provision for giving effect to the Convention on protection of children and co-operation in respect of inter-country adoption, concluded at the Hague on 29th May 1993; it also made further provision in relation to adoptions with an international element.*
- Children and Young Persons Act 2001 - *This Act re-enacted Parts I and II of the Family Law Act 1991; reformed the law relating to children; provided for social services for children in danger and in need; provided for the regulation of children's homes, fostering, child minding and day care; made new provision for human fertilisation, embryology and surrogacy.*
- Education Act 2001 - *This Act made new provision for education and connected purposes.*
- Matrimonial Proceedings Act 2001 - *This Act re-enacted with amendments certain enactments relating to matrimonial proceedings and property and made new provision for family homes and domestic violence.*

3. In addition, the Island has enacted the Human Rights Act 2001 which incorporates provisions of the European Convention on Human Rights into Manx law. This Act establishes a general rights framework in law for all of the Island's citizens, including its children and young people. It came fully into force on 1st November 2006.

4. Also, the Representation of the People (Amendment) Act 2006 lowered the age at which a person may vote in Isle of Man House of Keys Elections from 18 to 16 years.

5. A Children and Young People's Strategy Committee has been established with the following remit:

*"To review the policies relating to children whose behavioural difficulties were not being addressed by parents and carers and address the welfare needs of these children. The Committee would also be looking at the co-ordination and implementation of the key cross departmental policies applicable to children."*

6. The Children and Young People's Strategy Committee tasked a team of Officers from across Government to formulate a strategy for all children and young people. The Children and Young People's Strategy 2005 - 2010 was received by Tynwald in July 2005. The overall aim of the Strategy is to:

*"...continue to improve the lives and health of all children and young people whilst recognising that some children, young people and their families need extra support."*

7. The Strategy was shaped by an extensive consultation programme carried out in 2001/02 and autumn 2004 involving focus groups involving a range of gender, age, ability and geographical location, media and press, individual interviews and with young people at two conferences. Non government agencies were also included in the consultation through focus groups and through direct consultation.

8. Interim progress has been made towards sharing information through an Information Sharing Protocol and the setting up a data base of 'looked after children' which contains information from education, youth justice and social services. Officer investigations have begun into an Information Sharing Index with the option of including only vulnerable children or all children under 19 years similar to that established in the UK.

9. In 2000 a multi agency Health and Lifestyle Survey group was established by the Chief Secretary's Office Drug and Alcohol Coordinator in partnership with DHSS and DoE initially and now with DHA also. This Group established a school survey programme using validated surveys by the World Health Organisation. Lifestyle monitoring is carried through with the first surveys taking place in November/December 2001, 2003 and 2005.

10. In paragraph 15 of the Concluding Observations the Committee recommended the establishment of a child rights focal point. The Council of Ministers' Social Policy Committee has given initial consideration into this recommendation and is currently exploring options for the appointment of a Commissioner for children. In paragraph 17 of the Concluding Observations the Committee recommended that greater efforts be made to ensure that the Convention's provisions are widely known and understood. Press coverage of the Isle of Man Government's appearance before the Committee contributed

to awareness of the Convention in the Island, as did the Government's publication of the Concluding Observations and comments by the Council of Ministers thereon. This report will also be published and made available on the Isle of Man Government website.

11. The Children and Young People's Strategy has been also published on the internet and is available in hard copy from the libraries. It makes reference to building on the United Nations Convention on the Rights of the Child and the five guiding principles of the Strategy are derived from the Convention.

12. The awareness of issues concerning the welfare and rights and children has also been significantly raised in the Isle of Man with the publication by Commission of Inquiry into the Care of Young People which published its Report in May 2006. This Commission of Inquiry was appointed by the Council of Ministers in October 2004 in response to concern over the circumstances surrounding the murder in 2002 of two young people who had been in care.

13. In October 2006 the Department of Health and Social Security appointed an advocate for children with disabilities to give children with disabilities the opportunity to voice their opinions relating to decisions that have a direct impact upon how they live their lives.

## **CHAPTER II: DEFINITION OF THE CHILD**

14. The position of in the Isle of Man remains substantially unchanged and generally analogous to that in the United Kingdom. However, certain references to legislation in paragraph 11 of the initial report are no longer valid and require updating:

- a. (The Children and Young Persons Act 1969 referred to paragraph 11(b) has been largely repealed and replaced by, inter alia, the Children and Young Persons Act 2001. Under the 2001 Act a "child" means a person under 18 years of age except for certain exceptions detailed in the Isle of Man's main report.
- b. A prohibition or restrictions may now be imposed on licensed premises, or in any specified room in the premises, in relation to the presence of persons below a specified age (not exceeding 18 years);
- c. that the age of consent for homosexual acts has now been equalised with that for heterosexual acts at 16;
- d. The Employment of Children Regulations 2005, made by the under section 54 of the Education Act 2001, now prohibit any

child under 13 years from being employed in any work in the Isle of Man.

### **CHAPTER III: GENERAL PRINCIPLES**

15. Some sections of the Adoption Act 1984 have been amended or repealed as a result of the Adoption (Amendment) Act 2001, which made provision for giving effect to the Hague Convention on protection of children and co-operation in respect of intercountry adoption.
16. In December 2006 the Department of Education's Youth Service launched its "Join In, Speak Up" campaign, which brings together under one banner a series of new and existing projects which aim to get the Island's young people more actively involved in their local community and to give them greater responsibility.
17. As well as social workers, the Children and Family Services section within the Social Services Division has 3 family advisers, a children's advocate, a senior psychologist and a looked after children's therapist. In 2000 a Child Protection Training Officer was appointed.
18. The Sexual Offences (Amendment) Act 2006, which came into force on 1st September 2006, equalised the age of consent for sexual activity for homosexual males with that of other persons at 16 years. The Act also repealed section 38 of the Sexual Offences Act 1992, which prohibited the "promotion" of homosexuality.
19. The principal provisions concerning the welfare of children are now contained in the Children and Young Persons Act 2001. This Act has amended and reformed existing child-care legislation and made new provision concerning the welfare of children. The main principles and provisions embodied in the Children and Young Persons Act 2001 are as follows:
  - the welfare of children must be the paramount consideration when the courts are making decisions about them;
  - the concept of parental responsibility has replaced that of parental rights;
  - children have the ability to be parties, separate from their parents, in legal proceedings;
  - the Department of Health and Social Security (DHSS) is charged with the duty to safeguard and promote the welfare of children who are suffering, or who are likely to suffer, significant harm;
  - certain duties and powers are conferred upon the DHSS to provide services for children and families;

- the DHSS is charged with the registration and regulation of children's homes;
- the DHSS is charged with the regulation of privately fostered children, child minding and day care for children;
- delays in deciding questions concerning children should be avoided as this is likely to prejudice their welfare;
- there are new provisions for human fertilisation, embryology and surrogacy.

20. The right to life of all persons, children and adults alike, is now specifically recognised in Manx law by the Human Rights Act 2001.

21. The information in paragraph 30 of the initial report concerning the Department of Education seeking the views of pupils and students is still applicable. However, in addition, in the event of a formal appeal against the penalty of suspension for misbehaviour, legislative changes introduced in 2004 require the appeal body to invite the pupil (if it thinks fit having regard to the pupil's age and understanding) to make representations and consider any representations made by him/her.

#### **CHAPTER IV: CIVIL RIGHTS AND FREEDOMS**

22. All pupils now have free access to the Internet within their schools.

23. The Education Act 2001 safeguards the legal rights of parents or guardians to withdraw their children from religious education or religious worship and to have access to denominational teaching of their choice.

24. Where the Department of Health and Social Security is looking after or proposing to look after a child, it shall before making any decision with respect to the child, so far as reasonably practicable, ascertain the wishes and feelings of the child, his parents, any other individual who has parental responsibility for him, and any other person whose wishes and feelings the Department considers to be relevant.

25. Under the Island's criminal justice system no child (or, indeed, any adult) may now be sentenced to any form of corporal punishment. The power of the Court of General Gaol Delivery to sentence a person to be whipped was abolished by the Criminal Justice Act 2001.

26. The use of corporal punishment in schools provided or maintained by the Department of Education has been prohibited by law since 2004, when the relevant provision (Section 10(b)) of the Education Act 2001 came into force. Although corporal punishment in private sector schools is not specifically prohibited in Manx law, the Government understands that it does not take place in these schools as a matter of policy.

27. Paragraph 43 of the initial report stated that Manx law does not provide a statutory right of privacy. With the coming into force of the Human Rights Act 2001 this is no longer the case.

## CHAPTER V: FAMILY ENVIRONMENT AND ALTERNATIVE CARE

28. The Department of Home Affairs now has a domestic violence draft strategy and is currently addressing the issue politically. The Probation Division runs a domestic abusers course for those convicted, cautioned or self referring for domestic violence.

29. Manx law does not permit a child to be separated from his parent except with the parent's agreement or by a decision of a court of law.

30. The Department of Health and Social Security may apply to a court to place a child in the care of the Department, or put the child under the supervision of the Department or a probation officer. The court must be satisfied that the child is suffering or likely to suffer, significant harm; and that the harm is or will be attributable to the care given to the child, or likely to be given to him if the order were not made; or the child is beyond parental control.

31. No care order or supervision order may be made with respect to a child who has reached the age of 17 (or 16, in the case of a child who is married). Unless previously revoked, a care order continues in force until the child concerned reaches the age of 18. Where a child is in the care of the Department, the Department shall allow the child reasonable contact with the child's parents.

32. A juvenile court may no longer place a child in the care of the DHSS where there are criminal proceedings against the child.

33. Where no person has parental responsibility for a child, the child is lost or has been abandoned, or a person who has been caring for the child is prevented from providing him with suitable accommodation or care; the Department of Health and Social Security is under a duty to take the child into its care (*Children and Young Persons Act 2001 Section 25(1)*).

34. The Department of Health and Social Security as of August 2006 had 107 looked after children, of which 18 were with their relatives on Island and 4 were with their relatives off Island, 24 were fostered on Island and 5 were fostered off Island, 46 were in children's homes, 1 in a secure unit, 1 at a resource centre, and 8 placed in the United Kingdom – 2 of which were in a residential school. In addition, the Department have children who have been placed with relatives who are not Looked After Children and are referred to as Kinship care.

35. The Department now contracts with one main charitable organisation for the provision in the Island of residential care for children - St Christopher's Fellowship (Isle of Man) provides residential places for children and young people in need and five places (plus one emergency bed) in a secure unit for young people who are at risk to themselves or others. The Isle of Man Children's Centre also provides ten places for children and young people in need.

36. A Care and Contract Manager for children's services was appointed in 2003 to develop and oversee the Service Level Agreements with the service providers.

37. The homes are registered, inspected and monitored by the DHSS. The new Registration of Care Bill will encase in law the need for small homes as well as large homes to be registered, inspected and monitored.

38. In paragraph 27 of the Concluding Observations the Committee recommended that measures be taken to prohibit the use of corporal punishment in the home. The use of reasonable chastisement by a child's parent has not been prohibited and, as in the United Kingdom, there are presently no plans for this to happen. It is not considered that a prohibition on the use of reasonable chastisement in the home would be either practical or desirable.

## **CHAPTER VI: BASIC HEALTH AND WELFARE**

39. Vaccination against pneumococcal infection has been added to the Isle of Man's childhood immunisation programme.

40. In paragraph 77 of the initial report was reported as 6.4 deaths per 1,000 live births in 1992. The average number of deaths of children aged less than one year per 1,000 live births during the period 2000 to 2004 was 3.67.

41. The Isle of Man has updated the previous Drug and Alcohol Strategies from 1999 and 2000 respectively. These were externally evaluated in 2003 with a favourable report and recommended update after 5 years. The updated joint Strategy was launched in April 2005 and addresses the education and prevention aspects relating to young people. There is a Drug/Alcohol Education Liaison Officer who works with teachers, PSHE coordinators and youth workers in delivering and improving alcohol/drug sessions for each year group. In relation to treatment and support for young people with drug/alcohol problems the Drug and Alcohol Team has arranged for a worker to focus on seeing young people referred on a part time basis.

42. In relation to the issue of smoking, although not referred to in the initial report, the age at which a person can purchase tobacco products was raised by law in 1999 from 16 to 18 years. The Public Health (Tobacco) Act 2006 has now been passed. This includes measures aimed at reducing smoking such

as controls on the advertising of tobacco and a prohibition on sponsorship by tobacco companies. It is also intended that from 1st March 2008 a ban on smoking in all enclosed public places will come into force.

43. The Isle of Man will have improved statutory provision in respect of maternity (and paternity) leave when subordinate legislation made under the Employment Act 2006 comes into force during 2007.

44. The Disability Discrimination Act 2006, when brought into force, will protect all of the Island's people from discrimination on the grounds of disabilities that they may have. It is envisaged that, given the wide-ranging implications of the Act, it will be phased in over a number of years, as happened in the United Kingdom.

45. It should also be noted that the welfare of children with disabilities is high on the agenda for the Department of Health and Social Security. A transition programme has been developed that assesses the needs of all looked after young people with disabilities as they move into adulthood. A number of different agencies are involved in the coordinated assessment from the age of 14 years in order to plan for a smooth transition to adult services.

## **CHAPTER VII: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

46. Legislation which came into force in 2004 confirmed the Department of Education's aim to promote the spiritual, moral, social and cultural development of pupils (*the Education (Curriculum) (No. 2) Order 2004*) and placed a statutory obligation on the Department to ensure that sufficient schools are available to afford all pupils opportunities for education, including practical instruction and training, appropriate to their respective needs (*the Education Act 2001, sect 2*).

47. The curriculum on offer to all pupils of compulsory school age in provided and maintained schools must, by law, include Manx Gaelic as a subject option. Manx history and culture are also required elements of the curriculum.

48. Run by Mooinjer Veggey in conjunction with the Department of Education, a Manx Gaelic Medium School (the Bunscoil Ghaelgagh) has been established and it now has the full range of year groups from Reception to Year 6. In autumn 2006 there were 47 pupils on its roll. Provision has been made with the Island's secondary school in Peel for these 11 years olds to be taught an element of the curriculum in Manx, so as to provide continuity for the children.

49. The prescribed curriculum for provided secondary schools emphasises the need for the curriculum for pupils aged 14 – 16 years to be relevant to the world of work and all pupils within that age range now have the opportunity to



study NCVQs (National Council for Vocational Qualifications) as part of their normal curriculum.

50. The Department of Education has employed a third Education Liaison Officer (formerly entitled School Attendance Officers) since 2005. The duties of this officer include the monitoring of school attendance and child employment on the Island.

51. The number of pupils who persistently truant from school is relatively small and attendance and unauthorised absence rates on the Island compare favourably with the corresponding figures for maintained schools in England (see below).

52. In paragraph 34 of the Concluding Observations the Committee requested information on truancy rates in Island schools. The table below provides overall figures for primary and secondary schools during the academic year 2004/05. The figures for schools in England during that year are also provided for comparison.

<b>Academic Year 2004/05</b>			
	<b>Source</b>	<b>Attendance (%)</b>	<b>Unauthorised Absences (%)</b>
Primary Schools	England Average	94.57	0.43
	IoM Average	95.05	0.29
Secondary Schools	England Average	92.18	1.25
	IoM Average	92.71	1.15

53. The information provided in paragraph 90 of the initial report is still applicable. However, the Department of Education is in the process of developing an integrated policy for further education, vocational training and higher education which is intended to produce a comprehensive programme of initial, continuing, updating and re-training opportunities in all areas of economic activity to address existing skill gaps and create those skills which will drive the economy of the future.

54. The number of youth clubs maintained by the Department has increased from 17 to 22. These cater for children aged 11 – 13 years. The Department also maintains a total 17 Play Clubs, which cater for children aged 8 – 11 years, together with an Outdoor Education Centre and 15 special projects involving work with young people on the Island.

55. In order to increase higher education opportunities for students in the Isle of Man, particularly those seeking employment-related programmes, the Department recently assumed responsibility for the Isle of Man International

Business School and has encouraged both it and the Isle of Man College to develop advanced courses.

56. The Department's contract with INCLUDE, referred to by the Committee in paragraph 34 of the Concluding Observations, has not been renewed. Instead, additional resources have been made available to schools to enable them to provide in-school support for pupils with emotional or behavioural concerns, and specialist behavioural support centres (one for pupils of secondary school age and a second for those of primary school age) have been established to cater for those pupils whose behavioural needs cannot be satisfactorily addressed within their own school community.

57. Following an external review of its Special Needs and Psychology Service, in February 2007 the Department of Education announced the drawing up of action plan to further improve the Department's performance in this area.

58. Apart from facilities at schools, the Department of Tourism and Leisure provides and promotes opportunities and access for residents and visitors to participate in quality leisure, recreation, sports and the arts. Children and young people are especially targeted in the promotion of sporting and leisure opportunities. The Department of Tourism and Leisure developed a £20 million National Sports Centre, which is highly accessible to children, both through schools and clubs and individually. Participation in sport by all sections of the community, including children, is actively promoted through the Sports Development Programme, with the parallel objective of assisting in the achievement of sporting potential. A Sporting and Healthy Schools Partnership has been formed to reflect the need to promote a healthier lifestyle and increased levels of physical activity amongst children and young people.

## **CHAPTER VIII: SPECIAL PROTECTION MEASURES**

59. Following the deaths of two young people in the care of Government in 2002, the Council of Ministers established a Commission of Inquiry into the Care of Young People. The Commission reported in May 2006 and consideration and implementation of the Report's 132 recommendations is progressing.

60. Under section 70 of the Children and Young Persons Act 2001 it is conclusively presumed that no child under the age of 10 years can be guilty of an offence, but it cannot be presumed that a child age 10 years or older is incapable of committing an offence. The Isle of Man Government noted the concern expressed by the Committee in paragraphs 18 and 19 of the Concluding Observations in respect of this proposal. However, the Government believes that there are protections built into the 2001 Act for children aged 10 years and older who are accused of an offence and there

are presently no plans to raise the age of criminal responsibility, which is the same as that in the United Kingdom.

61. The reference to s.28 of the CYPA 1966 in paragraph 104 of the initial report is no longer valid. This provision has been replaced and expanded upon by s.76 of CYPA 2001. Where a child under 17 is committed to an ordinary court for trial, he is to be released on bail except in cases of homicide or if the court is of the opinion that only his detention in custody would be adequate to protect members of the public from death or serious personal injury occasioned by offences committed by him (*CYPA 2001, sect.76(2)*). A child may be remanded to accommodation provided by the DHSS where he is at risk of suffering significant harm or poses a risk of harm to the public (*CYPA 2001, sect.76(3)*).

62. The Department of Health and Social Security is required by Manx law in dealing with a child or young person who is brought before the court, either as being in need of care or protection or as an offender or otherwise, to safeguard and promote his welfare, maintain him, advise, assist and befriend him with a view to promoting his welfare after he ceases to be looked after by the Department of Health and Social Security.

63. Various government and independent agencies work to aid the physical and psychological recovery and social reintegration of child victims. A key role in developing effective joint working and developing skills in this area is undertaken by the Island Child Protection Committee. Its principle tasks are to monitor and review inter-agency procedures, promote inter-agency training, identify issues from the handling of cases and to ensure proper public awareness of child protection issues.

64. The Department of Home Affairs worked closely with the Department of Health and Social Security in 2003 to provide for all children and young people, aged (or sentenced whilst) under seventeen years, to be accommodated in the new young person's secure unit at White Hoe.

65. Youth Crime was down from 295 arrests in 2004/5 to 289 arrests in 2005/6. Referrals to the Youth Justice Team rose from 595 in 2004/5 to 651 in 2005/6.

66. There is a scheme in place to actively help and support youths from pre-crime intervention through to post court conviction and supervision orders. Cases are usually referred to them via a partner agency. They consider the referral, analyse the facts and determine the appropriate response.

67. There are very few youths who have been given a custodial sentence. The Youth Justice Team and St. Christopher's Fellowship who are the service providers for the secure unit have developed an agreement regarding young persons remanded in custody.

68. A major review of the Island's legislation governing the employment of children resulted in the introduction, in 2005, of new statutory provision in this area – the Employment of Children Regulations 2005. No child under 13 years of age may now be employed in the Island and children aged 13 – 14 years are only permitted to undertake light work. Certain types of work are prohibited in the case of all young people under 18 years of age, and restrictions apply to the employment of children who are still of compulsory school age. In addition, legislation designed to offer added protection to children performing in film, TV and stage productions in the Isle of Man was introduced a year earlier, in 2004 (*the Performances by Children Regulations 2004*).

69. The Department of Education employs a full-time Drug and Alcohol Liaison Officer whose main responsibilities include providing guidance to schools regarding drug or substance abuse (including alcohol and tobacco) among young people and liaising with other relevant Government agencies.

70. Paragraph 37 of the Concluding Observations refers to the current reservation to Article 32 of the Convention and also to ILO Conventions No. 138 and No. 182. Preliminary consideration has been given to both the withdrawal of the reservation and the extension of the ILO Conventions to the Island. Further consideration will be given to these matters with a view to a decision being taken during 2007.

71. In addition to the updating of the Island's Drug Strategy, there is a drug arrest referral scheme mainly for adults but where young people are concerned they are referred to the Young People worker in the drug and alcohol team. There is also a juvenile alcohol referral scheme which is also a multi-agency response to alcohol-related problems and involves the youth justice team members with both statutory and non statutory agencies working with young people and their parents.

### **Optional protocols**

72. In paragraph 43 of the Concluding Observations the Committee recommended that the State party consider ratifying and extending to the Isle of Man the two Optional Protocols to the Convention. The decision of the State party on the ratification of the Optional Protocols is not a matter for the Isle of Man Government.