



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
10 August 2007

Original: English

Committee on the Elimination of Discrimination against Women

Thirty-ninth session

23 July-10 August 2007

Concluding comments of the Committee on the Elimination of Discrimination against Women: Cook Islands

1. The Committee considered the initial report of the Cook Islands (CEDAW/C/COK/1) at its 807th and 808th meetings, on 3 August 2007 (see CEDAW/C/SR.807 and 808). The Committee's list of issues and questions is contained in CEDAW/C/COK/Q/1, and the responses by the Cook Islands are contained in CEDAW/C/COK/Q/1/Add.1.

Introduction

2. The Committee commends the Cook Islands for its accession to the Convention in its own right on 11 August 2006, while noting its accession to the Convention in 1985 through territorial application under New Zealand. It expresses its appreciation to the Cook Islands for the quality and timely submission, of its initial report, which followed the Committee's guidelines for preparation of initial reports, while noting that it does not refer to the Committee's general recommendations. It also notes with appreciation that the report was prepared in a broad-based consultative process with the participation of government bodies, non-governmental organizations and Cook Islands women.

3. The Committee commends the Cook Islands for its high-level delegation, headed by the Minister of Foreign Affairs and Immigration, and expresses its appreciation for the frank and constructive dialogue that took place between the delegation and members of the Committee. The Committee also expresses its appreciation to the Cook Islands for the written replies to the list of issues and questions raised by its pre-session working group, and for the introductory statement and further clarifications provided in response to the questions posed orally by the Committee.

4. The Committee notes the Cook Islands' recognition of the important role played by non-governmental organizations, which assist it in its efforts to eliminate all forms of discrimination against women.



5. The Committee commends the Cook Islands for its withdrawal, effected on 30 July 2007, of all reservations held upon accession, namely to article 11 (2) (b) on the provision of maternity leave; articles 2 (f) and 5 (a) with regard to inheritance of chiefly titles; and in general as regards recruitment and service of women in the armed forces.

Positive aspects

6. The Committee commends the Cook Islands for commissioning, in 2005, a comprehensive review of the consistency of its legislation with the Convention, to identify areas in need of reform. It welcomes the establishment of a Law Reform Committee to carry out the reform process, which will include relevant line ministries and non-governmental representatives in consultation with the Crown Law Office, and appreciates the clear timeline for completion of the process.

7. The Committee commends the Cook Islands for its achievements in the field of education, in particular the provision of free and universal primary and secondary education, as provided for in the Education Act 1986-87, as well as the achievement of high literacy rates.

8. The Committee commends the Cook Islands for its provision of public health and sanitation services, including in partnership with non-governmental organizations, and wide availability of government-funded primary health care services including in the Outer Islands.

Principal areas of concern and recommendations

9. While recalling the Cook Islands' obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the Cook Islands to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls on the Cook Islands to submit the present concluding comments to all relevant ministries and to Parliament so as to ensure their full implementation.

10. While noting that article 64 (1) (b) of the Constitution of the Cook Islands guarantees equality before the law and the protection of the law without discrimination on the grounds of sex, the Committee is concerned that neither the Constitution nor other appropriate legislation embody the principle of equality between women and men, nor contain a definition of discrimination against women, in accordance with article 1 of the Convention, covering both direct and indirect discrimination and extending to acts of both public and private actors in accordance with article 2.

11. The Committee calls upon the Cook Islands to incorporate fully and without delay into the Constitution or other appropriate legislation, the principle of equality between women and men, and a definition of discrimination on the basis of sex in line with article 1 of the Convention, and extending to acts of discrimination by public and private actors, in accordance with article 2. The Committee further recommends that there be effective legislation to enforce the prohibition of discrimination.

12. The Committee is concerned that discrimination continues to exist in several areas of the law. While noting the ongoing law reform process, and efforts undertaken to identify inconsistencies with the Convention in Cook Islands legislation, the Committee is concerned that the Convention has yet to be given central importance as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality. The Committee is also concerned at the slow process of law reform and the fact that these reforms have not been accorded the necessary priority by the Cook Islands to achieve formal equality for women.

13. The Committee urges the Cook Islands to give central importance to the Convention as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality, and to prioritize its full incorporation into the domestic legal system. It encourages the Cook Islands to adhere to a clear timetable for completion of the necessary legislative reform as a matter of urgency, so as to achieve compliance with the Convention and the Committee's general recommendations, and to amend or repeal all discriminatory legislation and close any legislative gaps. It encourages the Cook Islands to generate the political will necessary for undertaking these reforms.

14. While noting efforts undertaken to raise awareness of the Convention throughout the Cook Islands, including in partnership with non-governmental organizations, the Committee is concerned about women's lack of knowledge of their rights and their lack of access to justice and ability to obtain redress in the courts, including because of costs and the availability of legal aid only for those unable to defend themselves in criminal prosecutions. The Committee notes that non-governmental organizations provide some free legal assistance to women.

15. The Committee encourages the Cook Islands to widely disseminate and raise awareness about the Convention and other legislation in both English and Cook Islands Maori, in particular the meaning and scope of direct and indirect discrimination, and formal and substantive equality of women. The Committee invites the Cook Islands to enhance women's awareness of their rights through legal literacy programmes and to expand legal assistance to women wishing to bring claims of discrimination or enforce their rights to equality. The Committee calls upon the Cook Islands to ensure that gender sensitivity and women's rights be made an integral part of the education and training of law enforcement and judicial officers, including judges, lawyers and prosecutors, so as to establish firmly in the country a legal culture supportive of women's equality and non-discrimination.

16. The Committee is concerned that the Cook Islands has not afforded the national machinery for the advancement of women the institutional capacity, resources and authority it requires to promote the full and effective implementation of the Convention in the Cook Islands and to support the use of the gender mainstreaming strategy across all sectors and levels of government, including in coordination with the Outer Islands' women's development officers under the Office of the Minister for Island Administration. Noting the recent changes to the institutional set-up of the national machinery, and the anticipated replacement of the Women's Policy with the National Gender Responsive Policy, the Committee is concerned that it has not received a clear understanding of the reasons for these changes and their advantages.

17. **The Committee calls upon the Cook Islands to strengthen the structural arrangements of the national machinery for the advancement of women, both vertically and horizontally, and provide it with the authority, decision-making power and human and financial resources that are necessary for it to work effectively for the promotion of equality of women and the enjoyment of their human rights. The Committee also recommends that the Cook Islands work with international donors and the United Nations system to develop the national machinery's capacity to coordinate the use of the gender mainstreaming strategy across all sectors and levels of government, including through the use of gender-responsive budgeting processes.**

18. While noting the recent economic downturn experienced by the Cook Islands and its position as a recipient of international financial and technical aid, the Committee is concerned that the National Sustainable Development Plan may focus, as a condition of such aid, on privatization and place private sector investment as central to economic growth and development, which can have negative impacts on women, and as such, may not adequately promote and protect women's rights.

19. **The Committee invites the Cook Islands to ensure that all national development plans, policies and programmes explicitly promote women's equality and empowerment and the practical realization of the principle of equality of women and men, using the normative framework of the Convention. It encourages the Cook Islands to assess and monitor the impact of economic restructuring and privatization on the implementation of its obligations under the Convention, and to take corrective measures as necessary. It invites the Cook Islands to seek innovative sources of funding and assistance for the promotion of gender equality, including in partnerships with the private sector.**

20. The Committee is concerned at the lack or limited availability of data disaggregated by sex in a number of areas of the Convention, which are necessary for an accurate assessment of the situation of women and for informed, targeted policymaking and the systematic monitoring and evaluation of progress achieved, and trends over time, towards the realization of women's de facto equality in regard to all areas covered by the Convention.

21. **The Committee calls upon the Cook Islands to enhance the collection of comprehensive data disaggregated by sex and of measurable indicators to assess trends in the situation of women and of progress towards the realization of women's de facto equality, and calls its attention to general recommendation 9 in this regard. The Committee invites the Cook Islands, as necessary, to seek international assistance for the development of such data collection and analysis efforts, and to ensure that such efforts are based on the needs of users of data.**

22. While recognizing the rich culture and tradition of the Cook Islands and its importance in daily life, the Committee is concerned about the persistence of deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life, which are discriminatory of women and impede the full implementation of the Convention.

23. **The Committee invites the Cook Islands to view culture and tradition as dynamic aspects of the country's life and social fabric and therefore subject to change. It urges the Cook Islands to put in place without delay a comprehensive**

strategy, including legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention. Such measures should include awareness-raising efforts targeting women and men at all levels of society, including traditional and church leaders, and be undertaken in collaboration with civil society and women's organizations. The Committee encourages the Cook Islands to use innovative measures that target young people and adults to strengthen understanding of the equality of women and men, and to work through the educational system, both formal and informal, as well as with the mass media so as to enhance a positive and non-stereotypical portrayal of women. It also requests the Cook Islands to put in place monitoring mechanisms and to regularly assess progress made towards the achievement of established goals in this respect.

24. The Committee is concerned about the persistence of violence against women and the lack of information about its extent and prevalence. It is also concerned that the Crimes Act 1969 is outdated, does not recognize marital rape, and lacks a comprehensive legal framework to deal with all forms of violence against women, and that judicial recourse for victims, enforcement measures, victim services and protection are insufficient. It is concerned that protection orders may not always be available after normal working hours of judicial officers and that under current civil protections, they are not available to all victims of domestic violence, which has serious implications for the personal security of victims. The Committee expresses concern about the inadequacy of response of law enforcement personnel and the legal system to cases of violence against women. The Committee is also concerned about the persistence of discrimination against women as a root cause of such violence.

25. The Committee urges the Cook Islands to give priority attention to the design and implementation of a comprehensive strategy to address all forms of violence against women, in conformity with general recommendation 19, and to prevent such violence, punish offenders and provide services for victims. The Committee calls upon the Cook Islands to enact without delay the proposed Sexual Offences Bill and to amend as necessary other laws, such as the Crimes Act 1969, to encompass all forms of violence against women, including marital rape, and to fully enforce legislation and ensure that perpetrators are prosecuted and punished. The Committee also draws attention to the Secretary-General's in-depth study on all forms of violence against women (A/61/122 and Add.1 and Add.1/Corr.1). It requests the Cook Islands to take steps to raise public awareness, including through media and education programmes, that all forms of violence against women, including sexual harassment, domestic violence and marital rape, are a form of discrimination under the Convention and unacceptable. The Committee calls upon the Cook Islands to ensure that women and girls who are victims of violence have access to immediate and effective means of redress and protection, and requests the Cook Islands to remove impediments women face in gaining access to justice, and provide legal aid to all victims of violence. The Committee recommends the implementation of training for the judiciary and public officials, in particular law enforcement personnel, and health-service providers, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate support to victims. It further calls upon the Cook Islands to enhance its data-

collection efforts and establish a monitoring and evaluation mechanism so as to regularly assess the impact and effectiveness of measures taken aimed at preventing and redressing violence against women. It invites the Cook Islands to seek international assistance in its efforts to put in place such a comprehensive response.

26. The Committee is concerned about the exploitation of prostitution in the Cook Islands and the lack of information about the links between the extent of prostitution and trafficking in women and girls and the country's tourism industry. It is also concerned about the lack of enforcement of the legal framework to combat the exploitation of prostitution and the criminalization of women and girls who are victims of such exploitation. The Committee is further concerned about the absence of efforts to prevent the exploitation of prostitution and address its root causes, and the lack of protection and services available to victims of exploitation.

27. The Committee calls upon the Cook Islands to pursue a holistic approach in addressing the exploitation of prostitution, and to provide women and girls with educational and economic alternatives, including economic empowerment programmes for women, including women from the Outer Islands. The Committee calls upon the Cook Islands to address the link between tourism and prostitution, including the demand for prostitution, and to undertake appropriate measures to discourage such demand. The Cook Islands should take steps to ensure the effective prosecution and punishment of those who exploit prostitution. The Committee urges the Cook Islands to consider protective and recovery measures for victims of exploitative prostitution and trafficking. The Committee recommends that the Cook Islands ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime.

28. The Committee is concerned about the lack of a legal mandate for the application of temporary special measures, and the low levels of participation of women in public and political life, especially at the highest levels of decision-making, in particular in Parliament, local governance, especially the Outer Islands Councils, public service, boards and in religious life. It is also concerned that prevailing social and cultural attitudes constitute barriers to women's full participation in all spheres of public life. It expresses concern about the Cook Islands' resistance to the application of temporary special measures in accordance with article 4, paragraph 1, of the Convention. It also notes with concern that the draft bill intended to replace the Outer Islands Local Government Act 1987 does not include requirements for equal representation of women and men in decision-making.

29. The Committee requests that the Cook Islands take all appropriate measures to increase the number of women in elected and appointed office at all levels, so as to comply with article 7 of the Convention. The Committee encourages the Cook Islands to take concrete measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention, and the Committee's general recommendation 23, on women in political and public life, and 25, on temporary special measures, and to establish concrete

goals and timetables so as to accelerate the increase in the representation of women in all spheres of public life. It also encourages the Cook Islands to implement awareness-raising campaigns, including on the purpose of temporary special measures as a necessary strategy to accelerate realization of women's de facto equality, and to highlight the importance to society as a whole of women's full and equal participation in leadership positions in all sectors and at all levels. It also encourages the Cook Islands to incorporate a requirement for women's equal representation in decision-making in the pending bill to replace the Outer Islands Local Government Act 1987.

30. While noting the achievements in the field of education and the phasing out of older educational materials, the Committee is concerned that the principle of the equality of women and men has not yet been incorporated at all levels of the education system, and that gender-based stereotypes discriminatory of women may persist in curricula and teaching methods. It is also concerned that there is no system to monitor the causes and scale of school attrition, and that there are no programmes for students who leave school prematurely, including for pregnant girls and young mothers.

31. **The Committee encourages the Cook Islands to incorporate the principle of the equality of women and men in its education system, and calls upon it to monitor, and where appropriate modify or introduce, educational curricula and teaching methods that promote women's human rights and address the structural and cultural causes of discrimination against women. It encourages the Cook Islands to put in place sensitization training for teachers both pre- and in-service. It also calls upon the Cook Islands to monitor and identify the causes of attrition, and to take appropriate measures to retain girls, especially those from the Outer Islands, in school and to provide alternatives to formal education for those who have left school early.**

32. While noting that a Draft Labour Bill (Employment Relations) is pending approval, to replace the Cook Islands Industrial and Labour Ordinance of 1964 and the Public Service Act of 1995-96, the Committee is concerned that the passage of the bill has been delayed in part due to resistance from the Chamber of Commerce to proposed maternity protections contained therein. It is concerned that, at present, there is no guaranteed maternity protection for women in the private sector, either in the form of paid maternity leave or preservation of employment during pregnancy or after birth. The Committee is also concerned about the lack of a law on sexual harassment, and the apparent lack of such provisions in part IV of the draft bill. The Committee is further concerned that the bill would limit the role of government in labour market matters, and that it may leave the achievement of women's right to equality in the labour market to their capacity to individually or collectively bargain.

33. **The Committee recommends that the Cook Islands ensure that the Draft Labour Bill (Employment Relations) fully complies with article 11 of the Convention, and that discrimination against women is prohibited in the private sector, in accordance with article 2 (e) of the Convention, and that such prohibition is effectively enforced. In the light of the Cook Islands' withdrawal of its reservation to article 11 (2) (b), the Committee calls upon it to take all appropriate measures to ensure that maternity leave is available in all public and private sector employment, with pay or with comparable social benefits.**

The Committee also calls upon the Cook Islands to prohibit sexual harassment in the workplace and guarantee women's rights to individual and collective bargaining. The Committee further encourages increasing attention for preschool programmes, including day-care centres, to assist working mothers.

34. The Committee is concerned with the inadequacy of preventative health care, including in the area of sexual and reproductive health. The Committee is also concerned that there may not be adequate attention paid to all areas of health care, including mental health and services for those women who may need specialized care, such as older women and disabled women and girls. The Committee is concerned that a woman wishing to undergo voluntary tubal ligation is required, under Ministry of Health policy, to receive her husband's or male partner's permission.

35. The Committee recommends that the Cook Islands take into account its general recommendation 24 on article 12, on women and health, so as to effectively address the differential needs in the area of general health and specific health needs of women, including those with specialized needs. It calls upon the Cook Islands to ensure that all women's health needs, including mental health and preventative care, are adequately addressed, and to enhance access to these services by women in the Outer Islands. The Committee calls upon the Cook Islands to abolish, without delay, the current Ministry of Health policy requiring women to obtain a husband or male partner's permission to undergo voluntary tubal ligation, in order to eliminate discrimination against women in accordance with articles 12 and 16 (e) of the Convention.

36. The Committee is concerned about the high rates of migration from the Cook Islands, including of women and girls, and is concerned that the Cook Islands is not taking adequate, proactive measures to stop such depopulation through the promotion of women's equal participation in, and benefit from, the development process at all levels, as well as through the provision of various health and other basic services.

37. The Committee calls upon the Cook Islands to address the reasons for women's out-migration in its development plans, including through the provision of economic empowerment programmes for women, including formal and non-formal education and training for women on the Outer Islands, and to ensure women's equal access to credit and technical assistance to promote women's entrepreneurship.

38. The Committee is concerned that, according to the Marriage Act 1973, the legal minimum age of consent for marriage is 16 years, but can be younger with the consent of a parent or guardian.

39. The Committee urges the Cook Islands to raise the minimum age of marriage for women to 18 years, in line with article 16 (2) of the Convention, the Committee's general recommendation 21 and the Convention on the Rights of the Child.

40. The Committee is concerned about the inadequacy of the protection of a woman's marital property in the event of the intestate death of her husband, and the lack of statutory provisions covering the division of property upon dissolution of de facto marriages. It is also concerned about discriminatory provisions in the Cook

Islands Act 1915 governing child maintenance, and the failure of the Cook Islands to enforce child maintenance orders.

41. **The Committee calls upon the Cook Islands to ensure that the law adequately protects a woman's property rights in the event of the intestate death of her husband and to establish a system of equitable division of marital property upon dissolution of de facto marriages. It invites the Cook Islands to put in place adequate legislative measures, including the review and amendment of existing laws, to guarantee that women obtain child support.**

42. **The Committee encourages the Cook Islands to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.**

43. **The Committee urges the Cook Islands to utilize fully in its implementation of the obligations under the Convention the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the Cook Islands to include information thereon in its next periodic report.**

44. **The Committee also emphasizes that the full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and the explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the Cook Islands to include information thereon in its next periodic report.**

45. **The Committee notes that adherence to the seven major international human rights instruments¹ enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Cook Islands to consider ratifying the treaties to which it is not yet a party, namely, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and to consider ratification in its own right of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which it is currently party through territorial application of New Zealand.**

46. **The Committee requests the wide dissemination in the Cook Islands of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, and the further steps that are required in that**

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

regard. The Committee requests the Cook Islands to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

47. The Committee requests the Cook Islands to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention, which is due in September 2011.
