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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Fifth periodic reports submitted by States parties under  
articles 16 and 17 of the Covenant**

**Addendum**

**UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND**

**OVERSEAS TERRITORIES<sup>1</sup>**

[7 August 2007]

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<sup>1</sup> The Pitcairn Islands did not have significant developments to highlight in respect of the previous report and no update was received from Montserrat. An overview of the developments in the British Overseas Territories is provided in the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland on its implementation of the Covenant (E/C.12/GBR/5, paras. 24-33).

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## CHAPTER 1. REPORT FROM BERMUDA

### 1. Statistics (includes the sections “land and people” and “economic, social and cultural characteristics”)

Population	• 64,009 (Bermuda - in 2007)
Number of men per 100 women	• 92 (Bermuda - in 2007)
Percentage of population under 15	• 17.8% (Bermuda - in 2007)
Percentage of population over 65	• 11.2% (Bermuda - in 2007)
Percentage of population in urban areas	• 100% (Bermuda - in 2007)
Religion	• Christian - mainly Anglican and Roman Catholic (Bermuda)
GDP <sup>2</sup>	• £2.7 billion (Bermuda - in 2005)
GDP per head <sup>3</sup>	• £42,032 (Bermuda - in 2005)
Inflation	• 3.1% (Bermuda - in 2006)
Government Deficit/Surplus <sup>4</sup>	• -£53.2 billion (Bermuda - in 2005)
Government Debt <sup>5</sup>	• £130.1million (Bermuda - in 2005)
Employment rate	• 82.5% (Bermuda - in 2000) <sup>6</sup>
Adult Literacy	• Prose literacy score: 289.8, Document literacy score: 280.0, Numeracy score: 269.7, Problem solving score: 272.8 out of a total of 500 points for each domain (Bermuda - in 2003)
Languages	• English and Portuguese (Bermuda).
Life Expectancy	• 76.3 - M; 81.7 - F (Bermuda - in 2007)
Infant Mortality - number of deaths of children aged under 1 year per 1,000 live births	• 2.4 (Bermuda - in 2005)
Fertility rate (per woman)	• 1.74 (Bermuda - in 2000).

### 2. General Political Structure

1. Bermuda is a United Kingdom Internally Self-Governing Territory. Bermuda has a parliamentary system of government. The Constitution of Bermuda, adopted in 1968 and amended in 1973, 1979, 1989 and 2003 contains provisions relating to the protection of fundamental rights and freedoms of individuals. The Queen and the Government of the

<sup>2</sup> Expressed in GBP £.

<sup>3</sup> Expressed in GBP £.

<sup>4</sup> Expressed in GBP £.

<sup>5</sup> Expressed in GBP £.

<sup>6</sup> Population aged 16-64 years.

United Kingdom appoint the Governor, after consultation with the Premier. The Premier is the individual who commands the confidence of a majority of the Members of the House of Assembly and heads a Cabinet of no more than 14 members of the legislature. The Governor is responsible for defence, external affairs, internal security and the Police. The Government of Bermuda comprises a Governor, a Deputy Governor, a Premier, a Cabinet and a bicameral legislature with a House of Assembly of 36 members directly elected for a term not exceeding five years and a Senate of 11 appointed members.

2. Bermuda's law and legal system are based on English Common Law, English statute law (in force since 1612) and Acts of the Bermuda Parliament passed since that time. The judiciary is a separate and independent body from the Government and its members are not elected, but appointed on the advice of the Chief Justice. As per Bermuda's Constitution, the Chief Justice is appointed by the Governor, acting after consultation with the Premier who shall first have consulted the Opposition Leader. There are three Courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

3. In 1963 Bermuda's first political party to contest a general election, the Progressive Labour Party was formed by Black Bermudians in a white controlled political and economic system. In 1964 the United Bermuda Party was formed by sitting members of Parliament. Bermuda was racially segregated during this time, the legacy of which persists in modern Bermuda. Rampant discrimination was also demonstrated by the lack of universal suffrage and a property based franchise.

4. In the General Election held on November 9th, 1998, the Progressive Labour Party won a majority of 12 seats in the territorial legislature, defeating the United Bermuda Party and taking power for the first time. In the next General Election, which took place on July 24th, 2003, the PLP won 22 of the 36 seats. On October 30th, 2006 following the election of the Honourable Dr. Ewart Brown as the leader of the governing Progressive Labour Party, he was sworn in as the Premier of Bermuda.

### **3. General legal framework within which human rights are protected**

5. There are several statutory and non-statutory instruments that guide human rights initiatives in Bermuda:

- The Bermuda Constitution Order, 1968;
- The Human Rights Act 1981, which was amended in 1995, 1998, 2000 and 2006;
- The Employment Act of 2000 which covers employment protections but speaks to non-discriminatory workforce practices;
- A review of the Convention for the Elimination of Discrimination Against Women (CEDAW), to which Bermuda is not a signatory but which prompted a review of all Bermuda Statutes to identify areas where the law might be discriminatory on the grounds of sex;

- The Commission for Unity and Racial Equality (CURE) Act 1994, which establishes the Commission with the mandate of: 1) tackling racial discrimination and institutional racial discrimination; promoting equality of opportunity; and promoting good relations between people of different races. The CURE Act was amended in 2005 to allow for CURE to collect data from employers not only on levels of employment by race, but by gender and Bermudian status as well;
- The 1997 voluntary Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment;
- The Universal Declaration of Human Rights (UDHR);
- The Convention for the Elimination of Racial Discrimination (CERD);
- The Convention on Human Rights (for Human Rights day);
- The Code of Conduct for Human Rights Commissioners, an in-house document which serves as a guide, resource and training tool;
- Commissions of Inquiry Act 1935, which guides the procedures of Commissions of inquiry appointed to address matters of a public nature.

6. In 1981, Parliament passed the Human Rights Act. Shortly thereafter the Human Rights Commission (HRC) was established to administer this act. The Commission consists of twelve Commissioners, who are drawn from various sectors of the community, and are supported by a staff of civil servants: an Executive Officer, two investigations officers, and an administrative assistant.

7. As representatives of multiple aspects of Bermuda's society, the Commissioners are committed to promoting fairness and healthy relations amongst the people of Bermuda. Their mission is to protect the rights and welfare of everyone by thoroughly addressing complaints of unfair and discriminatory practices contrary to the provisions of the Human Rights Act, 1981. Addressing human rights in Bermuda is an area that requires attention and gains prominence each year. Continuous efforts are needed to make sure that equitable opportunities are available to all.

### **Human Rights Protections**

8. The Act declares it unlawful to discriminate<sup>7</sup> against individuals on the basis (grounds) of:
- Race;

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<sup>7</sup> A person shall be deemed to discriminate against another when he or she treats someone less favourably than someone else, or deliberately refuses to enter into a contract or agreement with someone, on like terms, on the basis of the protected grounds.

- Sex (including the right to equal pay);
- Place of origin;
- Colour or ethnic or national origins;
- Religion or beliefs;
- Political opinions;
- Marital status;
- Family status/pregnancy (has or is likely to have a child, whether born in lawful wedlock or not);
- Disability (see Part I of the Human Rights Act 1981 for the detailed definition and interpretation of the condition of being disabled);
- Pregnancy;
- Criminal Conviction.

9. The corresponding areas of protection under the Act are:

- Employment;
- Accommodation;
- Supply of goods, facilities and services;
- Contracts;
- Public notices;
- Membership in clubs, organisations; and
- Membership in trade unions.

10. The Act also seeks to protect individuals from racial incitement, harassment based on race, color, ancestry or place of origin, sexual harassment and reprisal action. The latter protection assures that persons may not be treated prejudicially if they lodge a complaint participate in any way in a proceeding under the Act.

11. The right to “equal pay for equal work” is also provided for under the Act, which must be made out with one of the grounds above. The right to equal pay for equal work is operationalised with the understanding that individuals are regarded as employed for substantially the same work if their work is broadly similar in nature and the differences (if any) are not of practical importance vis-à-vis the terms and conditions of employment. A determination on the “value” of the work is made with regard to the demands of skill, experience, effort and responsibility.

12. Upcoming proposals for amendments to the Act will provide for a Trustee of Investigations when necessary. A Trustee of Investigations is an independent third party who would investigate any complaints against the HRC or the office of the HRC. The possibility exists that persons who have business with the HRC or the office of the Commission may believe they have been discriminated against in the provision of service. Should this occur, a Trustee of Investigations will investigate the complaint. The Trustee of Investigations is an independent third party who potentially serves three functions: 1) to address the complaints of persons who believe they have been discriminated against in the provision of service by the Human Rights Commission itself; 2) to address the complaints of persons who believe they have been discriminated against by a staff person of the Human Rights Commission; and 3) to address the complaints of discrimination by Officers of the Human Rights Commission against other Officers of the Human Rights Commission.

13. The Human Rights Amendment Act, 2006 was passed and assented to on 26th May, 2006. Two Amendments were made; Section 5 and Section 6B. Section 5 was amended in subsection (3A) by deleting “defendant” wherever it occurs and substituting “respondent”. Section 6B was amended by repealing subsection (1) and substituting the following subsection:

*“(1) No person who is an employee shall be harassed in the workplace by the employer or agent of the employer or by another employee on the basis of any ground referred to in section 2(2)(a)(i) to (vii)”.*

14. Cabinet has tasked the Human Rights Commission to further investigate the proposed Amendment for the addition of a Trustee of Investigations. With regard to the proposed amendment which related to extending the definition of a disabled person to include mental illness and learning disability, Cabinet directed that consultation be undertaken with the Ministry of Education and Sport, the Chamber of Commerce, the Bermuda Employers’ Council and the Persons with Disabilities Committee. Once this has been completed Cabinet are to be informed of their views and comments with respect to this proposed amendment.

15. The Human Rights Commission and the Ministry of Community and Cultural Affairs’ Department of Human Affairs consulted on a report entitled, “Recommendations for a National Policy on Disabilities”. The report and recommendations for a policy and strategy on disabilities in Bermuda, is soon to be presented to the new Minister of Community and Cultural Affairs.

#### **4. Information and publicity concerning the Covenant on Economic, Social and Cultural Rights and the reports to the Committee**

16. The Government of Bermuda has several structures which have responsibility for statutes that guarantee fundamental human and employment rights. Each Government Department manages its own communications on its responsibilities, services and resources, coordinated by the Department of Communication and Information. The Human Rights Commission holds regular public forums, publishes materials on its Act, and has produced radio and TV commercials which speak to the right to education, to work, freedom of speech and self-determination. The Commission for Unity and Racial Equality annually publicises the availability of public reports on race and human rights in the country’s official gazette.

## **5. Legal status and specific implementation of the Covenant on Economic, Social and Cultural Rights**

17. The Human Rights Act 1981 and Bermuda's Constitution are meant to enshrine the principals of the European Convention on Human Rights. The decisions of the European Court of Human Rights decisions are not binding on Bermuda because the Department understands there to be no all inclusive statute for the protection of fundamental rights, in the domestic legislation. The Human Rights Act would be the most substantive legislative protection for human rights in Bermuda.

18. If the HRC is unable to settle the causes of a complaint, they shall refer the complaint to the Minister who may, in his discretion, refer it to a Board of Inquiry to decide whether or not the Human Rights Act has been contravened. The decision of such a Board may be appealed to the Supreme Court, and then the Court of Appeal, and then the Privy Council.

19. The Human Rights Act section 18 and 22 indicates that offences and penalties for a violation under the Human Rights Act can include punishment on summary conviction in the forms of fines and/or imprisonment.

## **6. Response to the concluding observations**

### **Paragraphs 24 and 25 of the concluding observations (E/C.12/1/Add.79)**

20. The Department of Human Affairs is currently undergoing administrative review of the HRCs operations. The human rights legislation is also being reviewed for recommendations on more amendments and/or a complete legislative overhaul.

21. Although the Human Rights Act, 1981 (the Act) has been amended piecemeal over the last 25 years, it has not kept pace with movements in international human rights legislation and consequently is outdated. The Act is unclear in a number of places and causes problems for the Investigating Officers, the Commission Members and Board of Inquiry Members. The procedures for managing complaints involve lengthy intake processes. In at least one protected area of discrimination (criminal record), the Act is inconsistent with other statutes. References to new technologies, such as e-mail communications, are not addressed in the Act. With regard to the Boards of Inquiry, although a procedure manual has been developed to guide the processes and management of the Boards, there are inconsistencies in how the processes are managed, which could give rise to appeals.

22. A comprehensive review of human rights in Bermuda will be undertaken and will take into account developments in Bermuda and internationally. It will identify steps which may need to be taken to advance Bermuda's system of human rights protection towards full conformity with the standards embodied in the Paris Principles for National Human Rights Institutions which were endorsed by the United Nations in 1992.

23. Necessary elements of the review are:
- A detailed examination of the Human Rights Act (Bermuda) and related legislation, including relevant legal opinions and earlier proposals for legislative change, in order to identify inadequacies and/or ambiguities in the law which limit its effectiveness;
  - An examination of the role and powers of the Human Rights Commission, with particular emphasis on the procedures for dealing with complaints of discrimination;
  - An examination of the role and structure of Boards of Inquiry, with a focus on the real and perceived independence of the Boards;
  - An analysis of the Commission's work as available through its annual reports and other sources, in order to develop an understanding of the nature of the complaints coming to it and their disposition;
  - An analysis of the decisions of Human Rights Boards of Inquiry made under the Human Rights Act and of relevant court decisions in Bermuda and other common law countries;
  - An examination of the provisions in the Human Rights Act which enumerate prohibited grounds of discrimination to identify possible gaps in protection and to recommend appropriate changes;
  - An examination of the statutory responsibility of the Human Rights Commission to encourage and promote an understanding of human rights with a view to identifying any steps that might be necessary in order to reinforce this function;
  - An examination of the legal framework, including its line of reporting, in which the Human Rights Commission operates and an assessment of its compatibility with the standards of independence and autonomy for national human rights institutions as expressed in the Paris Principles; and
  - Examination of reports submitted by Bermuda under reporting requirements of European Charter of Human Rights, International Covenant on Economic, Social and Cultural Rights, and the Convention for the Elimination of Racial Discrimination and any other applicable international human rights treaties.
24. The results of the review will include the preparation of a discussion paper that will identify the strengths and weaknesses of the law and its administration and will include possible options for increasing the law's effectiveness.
25. Specific areas of consideration for legislative enhancement will be: the transmission of information via electronic and telecommunications methods, considerations for age discrimination, equal pay enhancements, Ministerial involvement in approving cases for Boards of inquiry, the addition of racial harassment as a violation of the Act, and introducing a trustee of investigations for managing in-house, and a review of financial assistance with respect to processing cases through to Boards of Inquiry.

26. Bermuda continues to address the issue of racial equality through the publication of statistics on workforce demographics, education and training and new proposals for legislation.

27. The Annual Review of the Workforce Survey, which is undertaken and published every year by the Commission for Unity and Racial Equality (CURE) continues to show that the representation of the black Bermudian workforce remains significantly skewed. Blacks represent 55% of the workforce, and of the overall population of Bermuda, but continue to be under-represented in the senior/executive and mid-management employment and income levels and over-represented in the non-professional employment levels.

28. The 2006 Throne Speech acknowledged that race relations continued to impact the lives of Bermudians and that Government “*will develop a healthy way to confront the pernicious deeds of the past and present in order to embrace the promise of the future*” and “*will create programmes to empower the disadvantaged to give them a chance for a fair fight for their futures - fair fight for jobs, businesses, land and opportunity*”. A number of initiatives to address race relations are planned for 2007.

- Workforce Empowerment Legislation which will enhance the existing CURE legislation by mandating employers to document equality of opportunity policy and strategy is set to be introduced;
- Consultations with the private sector resulted in the establishment of a Joint Industry Task Force on CURE in 2006. In 2007, this initiative will focus on workplace parity, the employment of black males, identifying entry-level jobs, industry specific training regimes, and apprenticeship schemes.

29. A National Race Relations Strategy will be produced and incorporate a number of existing reports including CURE’s Strategy and Workforce Empowerment. The Race Relations Strategy will provide a process for dialogue, consultation and agreement on Bermuda’s official position on race and racism.

30. Bermuda’s Human Rights Commission has published Annual Reports for the years 2002 to 2005. The office is currently undergoing administrative review of its operations. The human legislation is also being reviewed for recommendations on more amendments and/or a complete legislative overhaul. The Government of Bermuda made its annual public commitment to tackling human rights issues on December 8th, 2006, by hosting a commemorative event for the United Nations Human Rights Day, which officially falls on 10th December of each year.

### **Paragraph 30 of the concluding observations**

31. Bermuda’s Human Rights Council is mandated to 1) conciliate, 2) settle, 3) potentially investigate allegations of discrimination, or 4) otherwise cause a contravention to cease, which pursuant to section 15 of the Act, “appears to be genuine”. The HRC is required to educate, as well, as part of its primary mandate. Consequently, under Part III of its primary legislation, the HRC:

- Encourages an understanding of the fundamental rights and freedoms of the individual guaranteed by Chapter 1 of the Constitution and the principle that all members of the community are of equal dignity, have equal rights and have an obligation to respect the dignity and rights of each other;
- Promotes an understanding of, acceptance of and, compliance with this Act;
- Develops, conducts research and arranges educational programmes designed to eliminate discriminatory practices;
- Encourages organisations within the community and individual persons to carry out activities, which will attract all members of the community whomsoever;
- Encourages and coordinate any activities which seek to forward the principle that every member of the Community is of equal dignity and has equal rights; and
- Promotes the conciliation and settlement of any complaints or grievances arising out of acts of unlawful discrimination and, where in its opinion such good offices are inappropriate, institute prosecution for contravention of the Act.

32. Each member of the HRC is required to preserve and aid in preserving confidentiality with regard to all matters relating to the affairs of any person that may come to his knowledge in the course of his duties. Any member who contravenes this requirement shall be guilty of an offense and liable on summary conviction to fine, imprisonment or both.

33. The main aim of the Human Rights Commission's work is to promote an understanding and acceptance of the principle that all persons are of equal dignity, have equal rights, and have an obligation to respect the rights of each other. Education plays a vital role in the Commission's mandated responsibilities, and public programs are formulated and implemented on an ongoing basis.

34. One of the public services of the Human Rights HRC is the daily screening of media advertisements to ensure that in letter, and intent, advertisers comply with the Human Rights Act. Amongst other things, the HRC stresses that job titles should remain neutral to enable qualified male or female applicants to apply for positions for which they are qualified.

35. Public forums are also educational vehicles, and to this end, the HRC has worked with the Commission for Unity and Racial Equality (CURE), community organisations and the Department of Human Affairs to sponsor and produce them. For example, the HRC has collaborated with Amnesty International to observe Human Rights Day, as proclaimed by the United Nations.

36. The Human Rights Commission organises regular educational programmes and workshops, screens newspaper advertisements daily, scrutinises employment application forms, organises public forums, prepares brochures (see Annexes) to provide guidelines for complaints processes, advertisers, respondents, and for those with disabilities, or who are the victims of sexual harassment.

37. As well, with regard to promoting human rights, the legislation is kept under review for potential and current amendments. A Declaration of Management policy (annexed), produced by the HRC, serves as a guide to all members of the public in the provision of equal rights and opportunities without discrimination.

38. The Human Rights Act 1981 specifically mandates, under section 14c, the HRC to develop, conduct, research and arrange educational programmes designed to eliminate discriminatory practices. The office of the HRC makes presentations to employers, including the Bermuda Police Service. The Office staff visit schools to discuss human rights. Public forums are used as a vehicle and in 2006 alone, there were four public forums and multiple radio presentations.

### **Paragraph 33 of the concluding observations**

39. See article 7 for response.

### **Paragraph 34 of the concluding observations**

#### **Right to strike**

40. There is a general right to strike in Bermuda - implied in sections 33, 34 and 35 of the Labour Relations Act 1975.

- Section 33 provides that it is unlawful for a person or persons to intimidate another with respect to their choice of behaviour during or in contemplation of a labour dispute.
- Section 34 provides characteristics of strikes which make them unlawful (if it has any object other than or in addition to the furtherance of a labour dispute within the trade or industry in which the strikers are engaged or it is designed to coerce the Government directly or by inflicting severe hardship upon the community); a strike, the purpose of which is to alter or maintain the terms and conditions of employment of the strikers shall not be deemed to coerce the Government.
- Section 35 provides that persons who refuse to take part in a legal strike will not be penalised.

41. With respect to essential services [electricity workers, fire-fighters, hospital nursing staff, airport security services, etc.], labour disputes are normally put to arbitration for resolution by the Minister responsible for labour. If this is not done, then theoretically, members can legally strike without fear of loss of employment. Section 9 of the Labour Relations Act 1975 provides that strikes or irregular industrial actions by workers in the essential services are limited by certain procedures. Namely:

- The labour dispute and twenty one days notice of the intended industrial action must be reported to a Labour Relations Officer; and

- The dispute cannot have been referred to the Permanent Arbitration Tribunal established under section 8 of this Act;
- A valid notice must specify the industrial action to be taken, the category of persons to participate in the action and the day the action is to commence.

42. Since the last periodic report, there have been very few reported industrial stoppages by Bermuda's essential services.

### **Paragraph 35 of the concluding observations**

43. The Women's Resource Centre, a charitable or non-profit organisation in Bermuda, is believed to be the only organisation that offers services to women survivors of abuse, and women and children in violent home situations.

44. With regard to the Bermuda becoming a signatory to the Convention on the Elimination of Racial Discrimination Against Women (CEDAW), the following processes were undertaken.

- A Cabinet Paper recommending that the Convention for the Elimination of Discrimination Against Women (CEDAW) be extended to Bermuda was presented to Cabinet in April 2004;
- Cabinet agreed, in principle, with the extension of the Convention to Bermuda and authorised the Minister of Community Affairs & Sport to issue instructions to the Attorney General's Chambers to: i) review existing legislation to identify any remaining clauses that are discriminatory against women, and, ii) to advise Government as to the amendments required to enable CEDAW to be extended to Bermuda;
- The Attorney General's Chambers conducted the legislation review process of 1482 Acts and Statutory Instruments, save 218 items of legislation;
- The Attorney General's Chambers advised that there are 21 pieces of legislation which contain clauses that are discriminatory towards women. A Cabinet Paper proposing that the 21 pieces of legislation be amended Cabinet agreed to amend the legislation to be consistent with the premises of CEDAW, but will not sign CEDAW under the premises that some of the required legislative changes would be unconstitutional.

45. More research will be undertaken by the Department of Human Affairs on women's issues and the "Glass Ceiling". The research will focus on the current situation of women in the workplace, their prospects for the future and current legislative protections. The report will also gauge current resources available to women, and identify existing special interest groups. A special report will be produced based on these findings.

### **Paragraph 36 of the concluding observations**

46. As at November 2007, the Ministry of Social Rehabilitation assumed responsibility for Child and Family Services, Court Services, Financial Assistance. The well-being of children and families falls within this Ministry's mandate.

#### **Paragraph 40 of the concluding observations**

47. The right to appropriate medications for persons with HIV/AIDS is recognised. A Communicable Diseases Nurse ensures that all patients are aware of how to access treatment, provides patient education, monitors compliance and ensures support. Insured clients may obtain Highly Active Anti Retroviral Therapy (HAART) medications they require through prescription by private physicians. Prescriptions may be filled at any pharmacy.

48. Since insurance only covers 80% of medication costs, the balance for Bermudians may be subsidised by government on application to the Nurse Epidemiologist at the Surveillance Unit. If the application for co-payment is approved, the prescription must be picked up at the General Hospital's Outpatient Pharmacy.

49. Medications for non-insured clients are prescribed by the Physician at the HIV Outpatient Clinic. Prescriptions for HAART are filled by the Outpatient Pharmacy through funding provided by the Department of Health. The Department of Health provides funding for HAART medications for Bermudian children with HIV/AIDS. Non Bermudian clients are not entitled to government subsidies for medications

### **7. Progress since the Fourth Report on each of the articles in parts I, II and III of the Covenant**

#### **Article 2 - Realisation of the rights contained in the Covenant**

50. The Ministry of Labour and Home Affairs has oversight of the Department of Immigration. The Immigration and Protection Act specifies how foreign nationals are treated with respect to immigration and work in Bermuda.

#### **Article 6 - Right to work**

51. The Government of Bermuda respects the International Convention on the Elimination of all Forms of Racial Discrimination. To this end, through its Commission for Unity and Racial Equality, the Government organises an annual public proclamation ceremony and educational events on and around 21st March.

52. With regard to the Bermuda becoming a signatory to the Convention on the Elimination of Racial Discrimination Against Women (CEDAW), the following processes were undertaken.

- A Cabinet Paper recommending that the Convention for the Elimination of Discrimination Against Women (CEDAW) be extended to Bermuda was presented to Cabinet in April 2004;
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- The Attorney General’s Chambers conducted the legislation review process of 1482 Acts and Statutory Instruments, save 218 items of legislation;
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53. The employment level in Bermuda rose nearly 2% in 2006. The international business sector became the leading provider of jobs to the economy surpassing the number of jobs in the public sector. The growing influence of international business on the labour force was reflected by significant increases in the level of employment in the international business, construction and business services sectors of the economy.

54. Over the past several years, the international business sector has created more jobs in the economy than any other industrial sector. This is attributed to Bermuda’s excellent reputation of a well-established and profitable insurance and reinsurance market.

55. In 2000, 85% of Bermuda’s working age population were gainfully employed or self-employed. However, in 2005 the labour force participation dropped to 79% but this measure was based on the number of jobs filled in the work force and not the number of persons holding jobs as in the 2000 Census.

56. In reviewing employment trends since the 1991 Census to 2005, men have consistently held an average of 51% of all jobs in the workforce with a predominance of filled jobs in the production, transport and related occupations. On the other hand, females holding the remaining 49% of jobs dominated the clerical, secretarial and related positions. In contrast there has been a steady decline in the proportion of young persons under 25 years occupying jobs from 12% in 1991 to 7% in 2005; for both male and female employment. However, it appears that persons are choosing to stay in the workforce longer as the number of individuals 55 years and over occupying jobs has increased by roughly one third from 1991 to 2005.

57. Bermuda’s unemployment level has declined from a high of 6% in 1991 to 2.1% measured in 2005.

58. The States Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

59. The steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

60. The Employment Act 2000 also provides and guarantees certain employment conditions.

61. Bermuda has encountered no difficulties in obtaining the objectives of full, productive and freely chosen employment for its citizenry. A marked feature of the world of employment in Bermuda continues to be a heavy reliance on expatriate workers, especially in the areas of administration, management, hospitality, construction and financial services. In fact, full employment creates the necessity to seek workers from overseas. Currently, approximately 10,000 of the 32,000 jobs available in Bermuda are held by expatriate workers.

62. There can be no doubt that Bermuda enjoyed tremendous economic growth during the 70's, 80's and 90's. The tourism industry flourished and we saw the growth, now the phenomenal growth, of the insurance, reinsurance and financial services sectors. During this period, as the economy diversified and prospered, we experienced a marked increase in the number of non-Bermudians working in Bermuda. There were, quite simply, too few Bermudians to fill the many and oftentimes highly technical jobs that were now available.

63. Unfortunately, but perhaps inevitably, as the Island prospered, there developed a laissez-faire tradition of permitting non-Bermudians to work in Bermuda as long as their employers and the non-Bermudian employees themselves wished. Prior to 1st August, 1989, the Government of Bermuda allowed the discretionary grant of Bermudian status: via that process, each year a certain number of non-Bermudians were granted full Bermudian status after application to the Board of Immigration. In 1989, however, the Government declared a moratorium on the grant of Bermudian status for persons without a familial connection with Bermuda. But the long-term resident population continued to grow in number.

64. There were cries in the community, from both those non-Bermudians who had come to Bermuda with a legitimate expectation of long term residency and Bermudians, for the plight of the long-term residents to be resolved. By late 1998, there were some 2000 non-Bermudians who had lived in Bermuda for twenty years or more. The cries for resolution grew louder and louder, with some in the community arguing that these persons should be permitted to remain forever if they chose to so, whilst others were vehemently opposed to the very idea.

65. On 9 November 1998, the Progressive Labour Party (PLP) assumed the Government of Bermuda. The new Government introduced into the Legislature the Green Paper entitled Bermuda's Long-Term Residents: A Discussion Paper, thereby advanced the following critically important 1998 General Election Platform commitment: "A PLP Government will implement a system of permanent residency to provide security of tenure to long-term residence." That historic document proposed that, while the Government supported giving permanent residence to long-term residents, it would also make a commitment to cease the practice of renewing work permits year after year almost automatically, thereby creating more long-term residents. Following the tabling of the Green Paper, numerous public meetings were held - there was widespread participation in the discussion process.

66. On 13 July, 2001, the Hon. Paula A. Cox, JP, MP, now Deputy Premier and Minister of Finance, at that time Minister of Labour, Home Affairs and Public Safety, introduced into the Legislature the White Paper entitled Community for a New Millennium: Bermuda's Long-Term Residents. The Government, honouring its 1998 and 2000 promises, allowed the award of Bermudian status to a limited number of non-Bermudians who had arrived in the Island before 1st August, 1989 [siblings of Bermudians, parents of Bermudians, etc.], created the Permanent Resident's Certificate for others who had enjoyed continuous residence in the Island for at least

twenty years and introduced the policy on work permit term limits. It is to be noted that the Bermudian status changes and the Permanent Resident's Certificate were enshrined in law upon passage of the Bermuda Immigration and Protection Amendment Act 2002. The work permit term limits policy would ensure that there was no recurrence of the kind of situation that obtained in November 1998. No guest would arrive in Bermuda with the legitimate expectation that he or she would gain full citizenship or Bermudian status simply as a result of long-term residence.

67. The new Government recognised at the time that the term limits policy was being developed that nothing must be done that might jeopardise the continuing success of business in Bermuda, whether international company business or local company business. The Government from the outset recognised that a balance must be struck between the legitimate needs and expectations of Bermudians and the current and emerging needs of the business community. It was that recognition that provided the underpinning for the Government's policy on work permit term limits that was enunciated almost six years ago.

68. Bermuda's work permit term limits policy that took effect on 31st March, 2001 and that was widely publicised, particularly among employer organisations, contains the following principal aspects:

- In most cases there will be a work permit term of six years.
- In cases where the employer is able to justify that because of a genuine and compelling reason there is a need for a longer period, the work permit term will be extended to nine years.

69. However, work permit term limits will not apply where it can be demonstrated that the work permit holder is key to the business's operation.

70. Key persons can be found at all levels and in all areas of a business and are to be found not only among Chief Executive Officers, Chief Financial Officers and other senior managers. They can be technical, professional, clerical or service as well as managerial staff. They may be actuaries, butchers, insurance brokers or specialist attorneys, for example. It is up to the employer to make the case to the Minister that a particular individual or post is key to the organisation.

71. In February 2006, in order to give employers a "heads up" regarding the implementation date of the term limits policy, the Department of Immigration sent letters to over 1900 employers, providing them with the policy and instructions with respect to the application process for waivers for key employees. Employer groups, guest workers and residents were apprised of the outcome of their applications with effect from 1 March 2007.

72. While the vast majority of Bermuda's guest workers will not fall in the "key" category and will be required to leave Bermuda after six or nine years, it would be altogether irresponsible to apply term limits indiscriminately. The Government recognises and appreciates the tremendous contribution that international businesses have made to the successes that Bermuda has enjoyed. The Government wishes to build on that success. The Government also recognises and appreciates the outstanding contribution made by most of the Island's work permit holders.

73. In these circumstances, the Government continues to pursue the policy of Bermudianisation that is, giving preference in the employment field to qualified Bermudians over persons coming from outside the Islands. In order to enhance employment opportunities for Bermudians, current Immigration policy allows the Minister with responsibility for Immigration to stipulate the identification of a Bermudian who will be trained to fill a particular post occupied by a guest worker. Staff of the Training and Employment Services section of the Department of Labour and Training work tirelessly to assist Bermudians who are seeking employment. This section arranges job fairs, links prospective employees with prospective employers and provides skills training sessions. Additionally, this section continues to work in partnership with trade unions, employers and training providers to develop and deliver programmes required to meet the current and emerging needs of both the labour market and the work force.

74. The primary goal of the Workforce Development Strategy - currently being developed and managed in collaboration with the Arnold Group of Providence, Rhode Island - is the development of an educated, skilled and motivated workforce. With the Island's current reliance on almost 10,000 work permits, it is essential that there be a strategic emphasis on the quality development of Bermudians.

75. No one will challenge the view that a fundamental aspect of the agenda of any caring and responsible Government must be the provision of strategies and programmes that ensure that Bermudians have every opportunity to participate as equal partners in the workplace. Most importantly, they must be provided with the skills and the knowledge that will enable them to participate fully in the workplace. It is the Government's expectation therefore, that successful implementation of the workforce development strategy will have significant short- and long-term rewards for our community.

76. A successful and relevant workforce development strategy requires collaborative and cooperative participation by all stakeholders in the workforce. The Government therefore established in April 2006 the Workforce Development Task Force, supported by four principal subcommittees [Public Education; Employment Transition Services and Work Preparation; Training; and Industry/Commerce]. That Task Force will produce its final report for the Government in May 2006.

77. During fiscal 2007/08, funding has been provided to support other programmes that are of critical importance as the Government seeks to improve employment opportunities for Bermudians. These include a Summer Student Job Skills Training Programme whereby 14 to 16 year olds will be provided with job skills to enable them to be prepared to enter the job market. Additionally, funding has been provided for a 14-week Paid Internships Programme to enable young people to gain entry level jobs in the construction industry, hospitality industry, business and other fields. This programme will provide job skills and literacy instruction for four weeks, instruction in the chosen occupation for four weeks and a supervised internship for four to six weeks. The anticipated start date of the programme is spring 2007.

78. The National Training Board plays a pivotal role in the provision of technical and vocational training programmes in Bermuda. The mandate of the National Training Board (NTB) under the National Training Board Act, 1997, is: *"To take such measures as it considers*

*necessary for ensuring an adequate supply of trained manpower in occupations in all branches of economic activity in Bermuda and to take such measures as it considers necessary for improving the quality and efficiency of training for apprentices and trainees.”*

79. The NTB, through a range of programmes, continues to provide funding support, technical college application for admission assistance and technical training advice to Bermudians. The advice and assistance are provided to those seeking job-entry training, change of career and career advancement training principally in the technical fields and the hospitality industry which represent a significant percentage of the jobs in Bermuda.

80. The core business of the NTB is apprenticeship training and awarding national certifications. In this regard, the NTB works with employers, unions and industry associations to establish internationally recognised training and certification standards. Bermuda College and overseas training providers ensure that technical and vocational training are available to Bermudians. The principal objective is to build a skilled and motivated workforce.

81. Technical and vocational guidance and training programmes, facilities and services are also provided by the following institutions or organisations:

- Bermuda College;
- Community Education Centres;
- Public schools;
- Businesses.

82. Private training companies, and also employers in both the private and public sectors, offer training and apprenticeship programmes in a number of technical and vocational areas, including the following: office administration; computer skills; landscape gardening/horticulture/floristry; carpentry/plumbing/masonry, etc; automotive repairs; electrical/mechanical engineering; hair/beauty; and food and beverage services. Apprenticeship programmes are open to persons between 16 and 21 years of age. The programmes usually last between two and four years and leads to an internationally recognised certificate such as that of the London Institute of City and Guilds.

83. Section 6 (8) and (9) of the Human Rights Act 1981 make provisions for cases whereby there may be bonafide and material occupational qualifications and bona fide and reasonable employment considerations that allow for a degree of discrimination. It is declared that the provisions of the act relating to limitation of or a preference in employment shall not apply in respect of any person who seeks to give preference to the employment of a Bermudian or who bona fide for reasons of national security take into account the nationality of any person when selecting any person for employment.

84. On the other hand, the Human Rights Act section 6(9B) states that nothing in the section confers upon any person any right to be given, or retained in, any employment for which he is not qualified or which he is not able to perform or of which he is unable to fulfil a bona fide

occupational requirement, or any right to be trained, promoted, considered or otherwise treated in relation to employment if his qualifications or abilities do not warrant such training, promotion, consideration or treatment.

85. According to the 2000 Census there was a general concern in Bermuda about the necessity for some to hold more than one job in order to make ends meet. The concept of multiple jobs for Bermuda occurred when a person with more than one job worked at more than one occupation.

86. Of the 36,252 persons considered to be employed in 2000, the vast majority reported holding only one job. They accounted for 91% of the working population. Another 8% reported working at two jobs and a small group of 1% held three or more positions. Multiple job holding had increased by only 1% since the 1991 Census despite the fact that Bermuda's economy was in a recession at that time and since had rebounded.

87. The Employment Act 2000 became operative on 1st March, 2001. The purpose of this watershed legislation was to provide benchmarks by which organisations could employ individuals and the manner in which those individuals are to be regulated in their employment. A significant aspect of this legislation is that every employee must receive from his/her employer within one week of commencing employment a statement of employment setting out the essential particulars of the expectations of both parties.

88. The Employment Act protects employees against termination without cause - termination for cause must be connected with ability, performance or conduct of the employee or because of operational requirements of the organisation. Dismissal therefore can only be for issues of misconduct, performance or redundancy. This Act proscribes procedures which must be followed before termination. Therefore, even though disputes will arise, employers and employees have a legal framework for both assembling a contract of employment and dealing with their relationship during the life of the contract of employment. The Act ensures fair and consistent standards of employment for the first time in Bermuda's Island's history.

89. The 2000 Act was amended in 2006 to enhance its effectiveness as a legislative instrument that meets satisfactorily as far as possible the needs of the principal partners in the tripartite relationship - workers, employers and the Government. The amendments were proposed after three and a half years of monitoring the implementation and effectiveness of the legislation by the Department of Labour and Training and consultation with the stakeholder groups and employment advisory bodies.

90. The substantive amendments include:

- Clarification that the Act applies only to employment, employers and employees in Bermuda;
- That persons get paid for performance of public duties during work hours;
- Clarification that the progressive discipline sections be applied by employers before issuing notice of termination;

- The power of the Minister, after consultation with the Labour Advisory Committee, to exempt a particular class of employment from the requirement to pay a severance allowance;
- Clarification that redundancy applies to a post rather than the employee;
- Clarification that secured creditors have priority over claims of employees in the case of the winding-up of a business.

91. The Age of Majority Act 2001 changed the age of majority from 21 to 18. Two consequential amendments affected the right to work:

- Amendment to the Day Care Centre Regulations 1999 - persons in charge of day care centres can be 18; and
- Amendment to the Trade Union Act 1965 - persons can become a member of a union at age 18.

92. The Workers Compensation Act 1965 was amended in 2004 to clarify that where an agreement or contract of employment establishes terms of workers' compensation that are more favourable than those in the principal Act, the terms in the agreement or contract prevail.

93. The Human Rights Act 1981 was amended in 2000. The section relating to the discrimination of employees by employers was expanded such that where employees could not be dismissed, they should not now be demoted for any discriminatory reason or for taking part in any proceedings under the Act. The Act was also amended to ensure that employers were required to take such action as was reasonably necessary to ensure that sexual harassment does not occur in the workplace. The Act was further amended in 2006 by clarifying that no employee is to be harassed in the workplace by his employer/agent or another employee on any discriminatory basis.

94. Court Decisions - Burgess, Furbert, Smith, Simmons v Stevedoring Services Ltd., Privy Council Appeal No. 37 of 2001, judgment delivered 15th July, 2002. This matter was in respect of a dispute between Stevedoring Services Ltd. ("SSL") and their employees represented by the Bermuda Industrial Union about overtime pay. This case, among other things, determined that stevedoring services are the kind of services one would expect to be provided in a port, that the overtime ban issued by the union fell within the description of industrial action and that a trade union is not a corporation, but an association of people instead. Thus, in this case, the union, by the decisions of its officials and meetings prescribed by the rules, had power to decide not to comply with its collective obligations. The union did not have the power on behalf of its members to decide that they would not comply with their individual obligations as prescribed by the collective agreement.

95. With respect to the full realisation of the right enshrined in Article 6 of the Convention, the Government of Bermuda sought assistance from the Caribbean Region of the International Labour Organisation (ILO). In 2006 a comprehensive review of the functions of the Department

of Labour and Training was conducted and a report setting out recommendations for improvement was provided. The Department is currently in the process of systematically implementing the recommendations set out in that report.

### **Article 7 - Right to fair conditions of employment**

96. There is no national minimum wage in Bermuda and the Government of Bermuda does not engage in the fixing of wages. However, the Department of Immigration has implemented a policy that recommends a minimum wage for domestics. Additionally, the Board of Immigration will from time to time recommend that a work permit in other areas [caregivers, gardeners, etc.] be denied if the salary offered is deemed to be too low.

97. The Department of Labour and Training has no record of conditions of work for women that are inferior to those that are enjoyed by men. However, the Department from time to time receives anecdotal information regarding incidents of inequality in remuneration for work of equal value and the infringement of the principle of equal pay for equal work. Significantly, the Employment Tribunal established in accordance with provisions of the Employment Act 2000 has not heard any cases in these areas.

98. The Employment Act 2000 applies to all employers and employees with the exceptions of persons specifically described in section 4(2). The substantive amendments include:

- Clarification that the Act applies only to employment, employers and employees in Bermuda;
- That persons get paid for performance of public duties during work hours;
- Clarification that the progressive discipline sections be applied by employers before issuing notice of termination;
- The power of the Minister, after consultation with the Labour Advisory Committee, to exempt a particular class of employment from the requirement to pay a severance allowance;
- Clarification that redundancy applies to a post rather than the employee;
- Clarification that secured creditors have priority over claims of employees in the case of the winding-up of a business.

99. The Employment Act 2000 makes provision for overtime, rest days, time off for public holidays, annual vacation, public duties, sick leave, and bereavement leave as follows:

- Section 9 provides that any hours worked by an employee in excess of forty hours a week must be compensated either by pay at the overtime rate or if paid at the employee's normal rate, then time off in lieu. This section does not apply in the case of managers or professionals where the statement of employment indicates that salary has been calculated to reflect that normal duties may require him/her to work in excess of forty hours a week;

- Section 10 provides that a mandatory rest period of at least twenty-four consecutive hours must be provided by employers to every employee with the exception of police officers, prison officers, fire officers and medical personnel employed at the hospital;
- Section 11 provides that employers must grant to employees every public holiday with pay falling within any period of employment. Where employees are required to work on public holidays, they shall be paid at the least, the overtime rate;
- Section 12 provides that employees shall be entitled to the minimum of two weeks paid annual vacation after he has completed the first year of continuous employment;
- Section 13 provides that employers shall permit employees to take time off working hours as is reasonable to attend to public duties such as Government board meetings, the Bermuda Regiment, the reserve police, meetings of the Senate or House of Assembly, jury duty, to vote in a parliamentary election. Employees who have completed one year of continuous employment are entitled to be paid during absences for the above reasons;
- Section 14 provides that employees who have completed one year of continuous employment are entitled to be paid for at least eight days per year where they are unable to work due to sickness or injury;
- Section 17 provides for bereavement leave or three days for employees to attend the death of an immediate family member or up to five days to travel overseas for a funeral. Payment for bereavement leave is not obligatory.

100. The Workers Compensation Act 1965 as amended in 2004 makes provisions for the financial compensation of workers for injury or occupational disease which occurs whilst working and applies to workers employed by or under the Crown in the same way and to the same extent as if the employer was a private person but does not apply to navy or air force personnel.

101. The provisions of the Employment Act 2000 are enforced by inspectors designated by the Minister responsible for Labour. Persons with complaints regarding the above conditions of employment have the right pursuant to section 36 of the Employment Act to complain to an inspector who must try and conciliate and settle the matter. Where this cannot be done and the inspector is of the opinion that an employer has breached provisions of the Employment Act 2000, the matter must be referred to the Employment Tribunal for settlement. Numerous matters concerning compensation for overtime and annual leave have been either resolved by the skilled inspectors or settled by the Tribunal.

102. Bermuda boasted a median employment income of \$48,183 in 2005. Gross employment earnings for males averaged \$50,553 while females earned \$46,270. A comparison of remuneration for employment earnings is shown below for the broad occupational groups.

Occupational Group	Median Gross Annual Income	
	All Industries	Public Sector
Professional/Technical/Related	\$67 115	\$73 240
Administrative/Managerial	\$71 839	\$86 275
Clerical	\$42 896	\$46 146
Sales	\$37 723	\$53 999
Service	\$32 707	\$52 003
Agricultural & Fishing	\$39 832	\$41 703
Production/Transport/Related	\$46 796	\$45 139

103. The Government of Bermuda has made provision for securing the safety, health and welfare of all workers and for protecting other persons who may come into workplaces as clients against risks to their health and safety in connection with the activities of persons at work.

104. The Occupational Safety and Health Office is a small office within the Environmental Health Section of the Department of Health. Presently, there is a three (3) staff complement.

105. The Minister of Health is the Minister responsible for the Occupational Safety and Health Act 1982 that has been amended in 1986, 1987, 2004, and 2005 together with subordinate legislation such as the following regulations:

- The Health and Safety Committee Regulations 1984;
- The Notification of Accidents & Dangerous Occurrences Regulations 1985;
- Construction Sites (Safety) Regulations 1985;
- The Health and Safety at Work (Fire Precautions) Regulations 1986;
- The Health and Safety at Work (General Requirements) Regulations 1986;
- The Health and Safety at Work (Pressure Systems) Regulations 1989;
- Shipping Containers Regulations.

106. This legislation places a duty upon all employers, self-employed persons, employees, designers, manufacturers, importers and suppliers of any article or substance for use at work, and owners of premises that are used by other persons as places of employment. These persons are to ensure that the premises, the methods of the working activities conducted and any by-products of that activity do not place anyone at risk in sustaining an ill health condition, injury, or death.

107. The legislation is self-regulating whereby each person to whom it applies must show due diligence in the protection of himself and others. The Act requires that where there are 10 or more employees employed, a safety and health committee must be established and where less than 10, a non-managerial employee must be appointed by management as a safety and health representative.

108. There are no categories of workers that are exempt or excluded by law from any existing scheme. However a number of sectors were assessed and determined to be in need of greater regulation. These sectors include power engineering, fuels, elevating devices, and amusement devices. Additionally, the Safety System framework was used to work through and discuss fire safety, crane operation, hazardous materials and confined spaces.

109. The following table outlines the nature and frequency of occupational accidents since the mid-eighties.

Year	Fatalities	Permanent Disability Injury
1984-1989	3	1
1990-1998	6	3
2003-2006	3	0

110. The incidences of fatalities and permanent disability injuries have occurred at the following workplaces:

- Docks;
- Construction sites;
- Confined Space;
- Electrical;
- Landscaping;
- Private Open Land Mass.

111. Reports on work in the area of equal opportunity for promotion have taken three forms of outputs: 1) the Measure of Compliance Report; 2) From Survey to Practice report on Equality of Opportunity Initiatives in Bermuda 2004; and 3) the CURE Annual Review of the Workforce Survey Report.

112. In August of 2004, all companies registered under the CURE Act 1999 were invited to respond to a voluntary questionnaire called, "The Measure of Compliance". The questionnaire was designed to survey employers' understandings of equality of opportunity.

113. Seventy companies responded to the questionnaire, which represented a 15% response rate. Due to this level of response, the Commission elected to present the data as a sample of the registered 2003 company population, rather than a comprehensive study.

114. The "Measure of Compliance Questionnaire" was a "first step" for companies to begin to gauge how successfully they are employing equality of opportunity in their work environments. In this way, the questionnaire challenged Human Resource professionals and other industry

leaders to consider and review their efforts in aspiring for “Excellence in Equality”. Specifically, the questionnaire assisted employers in determining what systems, policies and initiatives are in place to promote equality of opportunity in the work environments. Additionally, we hoped to assess organisations’ understandings of equality of opportunity.

115. The data presented served as an indicator of how or whether companies are promoting fair employment practices and utilising the Code of Practice and its guidelines. Generally, respondents indicated they were familiar with basic concepts of equality but not practicing in a way that would achieve it.

116. In 2004, CURE conducted a qualitative study on Equality of Opportunity and reported the following recommendations:

117. Survey follow-up activities are critical to the success of monitoring equality of opportunity practice in the workforce. CURE discussions revealed that companies were aware of the equality principle, but were more focused on implementing generalist human resource and employment practices. As a result, equality of opportunity compliance and racial representation initiatives are absorbed and potentially lost behind the talk of “good practice”. Reflecting the complexity of the “race towards equality” are the many perspectives and challenges presented by employer representatives. These multiple challenges can be met with many possibilities for change. After the discussions with employers, CURE put forward the following recommendations:

- Umbrella groups for industries should play a larger role in heightening awareness about careers and jobs in their respective industries. Secondary students who will be entering the job market must be made aware of the fields that are available in Bermuda. Publications such as the Annual Employment Survey should be distributed to secondary students to assist them with career choices, needs and job availability;
- Companies need to conduct qualitative surveys of employee perceptions. They need to understand what the employees think of the organisation, its policies on racial diversity, and fair access to opportunity. This process is a critical step towards practicing equality of opportunity;
- A database of current and future job seekers (students studying locally and abroad) could be devised as a human resource tool and resource for job seekers;
- Current equality of opportunity practices, directions for improving racial representation and fair access commitments must be documented and communicated to all employees. Every employee should be aware of where the company stands and where the company is heading, on equality of opportunity as a whole and race equity specifically;
- Companies that recognise that there is a shortage of qualified individuals in a particular field need to convey this message to the Department of Education so that current students who will enter the labour market in the future are aware of the opportunities and where they are most needed;

- Counsellors must work with students who will be entering the labour market to train them on how to conduct themselves professionally and teach them the interviewing skills needed to get the “job”;
- Employers should conduct exit interviews 6 months to a year after an individual leaves (rather than at the same time as their departure) their employment - employees who leave are not likely to be frank about their reasons for leaving if they are dependent on references and preserving good relationships. In exit or post-employment interviews, instead of asking, “Why are you leaving?” ask, “What made you think about leaving”;
- Managers and Supervisors should be evaluated on the basis of how well they have managed diversity and contributed to the recruitment, promotion and retention of Bermudians, on a whole, and Black Bermudians, specifically. They must be made to account for how they manage and promote successful relationships with people of different races - specifically their relationships with employees and between employees. Most businesses will agree that if there is no form of evaluation of individual efforts to promote equality of opportunity; very few will make it a priority. Even if a Manager were doing very little to promote racial equality, if this person knew they were going to have to report on and document their initiatives, he or she would be more likely to take positive action;
- Greater emphasis should be placed on training for students who are more inclined to a “technical” curriculum. Bermuda continues to have a great need for students trained in the trades (carpentry, masonry, drafting, etc.);
- Employers should aim to establish an internal Equality of Opportunity/ Code of Practice Advisory Committee to include Executive, Managerial and Operational employees from across the organisation. The members would be responsible for establishing the organisation’s starting point, reviewing procedures, educating on discrimination, its manifestations and outcomes, and monitoring the progress in achieving the objective of representation;
- Employers must ensure that they have drawn up clear and justifiable job criteria, which are demonstrably objective and job-related. The job criteria should not change when a position becomes available and there should be no clear link between the required experience for a post and the resumes of select individuals;
- Rewards and recognition incentives can be put in place for those who facilitate valuing diversity and the demonstration of cultural competence;
- Employers may offer pre-employment training, where appropriate, to prepare potential job applicants for selection tests and interviews;

- Employers should also consider special programmes and positive action training to help employees, less represented in the organisation, or from disadvantaged groups, to apply for jobs and to take on tasks in areas where they are underrepresented. Practically, this might mean selecting Bermudians for augmented training and experience in overseas offices and training facilities. These opportunities should be consistently offered with the intent of bringing Bermudians back to Bermuda to take on true leadership roles and commensurate tasks. Some employers have already implemented such programs and report great success;
- Much more emphasis needs to be placed on the cost of retention and local recruitment versus overseas recruitment. This attention includes reviewing salaries to ensure that they reflect market realities. There may be room for employers to reward their local employees better, for there have been some reports that newcomers to positions garner better compensation packages than longer term employees, simply as a consequence of oversight of the current-day salary levels;

118. The Commission for Unity and Equality also publishes an annual report on the state of the races in Bermuda, with regard to the workforce: The Annual Review of the Workforce Survey Report. For the first time in its history, the 2005 report provides data not only on race, but on gender and Bermudian status. The 2004/2005 Annual Review of the Workforce Survey reports on data collected from 1st September 2003 to 31st August 2005. Five hundred and forty two companies (542) registered with CURE during this reporting period. The 2004/2005 study reports that:

- The surveyed workforce was made up of 27,137 employees representing 542 companies;
- The workforce was comprised of 55% black, 34% white and 11% mixed and other race employees.
- The majority of the workforce was comprised of non-professional levels of employment (65%): the least number of positions were available at the executive level (2%);
- Black employees continued to be highly represented in the non-professional positions at 63%;
- White employees held the largest proportion of the executive management positions at 67%, nearly 7 in 10 positions out of a total of 567 jobs at this level of employment;
- Representation for black executives has been steadily increasing; between 2000 and 2004, black executives increased in proportional representation by 7 percentage points (20% to 27%). Conversely, the numbers of “mixed and all other race” executives has dropped from 12% in 2000 to 6% in 2004;

- White males represented the largest proportion (76%) of executive positions when compared with all other males; black males represented 18%;
- Gross annual incomes for 2004 were largely concentrated in the \$24,000-\$59,999 income band with 59% of all employees falling within this income band;
- As in previous years, black employees comprised the largest share of those earning \$24,000 and less at 62%;
- In the upper levels of the income scales (\$96,000 or more), white employees had a proportional share of 73% indicating high levels of representation;
- The figures for level of employment by race and status show that white Bermudians held the majority share of executive positions at 34%; conversely black Bermudians held the majority of non-professional positions at 60%.

119. The survey indicates that the representation of the black Bermudian workforce remains significantly skewed. Blacks represent 55% of the workforce but continue to be under-represented in the senior/executive and mid-management employment and income levels and over-represented in the non-professional employment levels. However, there are indications of some improvement as is evidenced by the movement of Black employees into senior executive positions. However, these gains for blacks have had no impact on the levels of white executives and additionally have resulted in a loss of representation for ethnic minorities. Whites continue to be highly represented in executive and senior level management positions. The inverse correlation between race and employment levels and income is much the same as in previous years.

120. Comparatively, black employees hold the majority of the non-professional roles at 63% although representation has declined 4% from 2001 and 2002 to 2004. Conversely the representation levels for white non-professionals have increased 6% to 24% in 2004. Amongst the other employment levels, black employees lost positions at the non-managerial/professional/technical level and Whites increased their representation.

121. For the first time the survey has included data on the state of the races by gender and Bermudian Status. With regard to gross annual incomes by race and gender, black and white males have reported consistent and negatively correlated results. Proportions for black males decline as wages increase and the opposite occurs for white males. White males maintain the highest proportions of all incomes over \$59,999. Black females are however making inroads into the wage disparity. While White females lead in earnings above \$95,999, black females are the highest proportional earners for all income bands below that level.

122. The report's conclusion details that Black employees have made small advances in their rate of representation at the executive and senior levels of employment and that the 5-year survey result comparison (2000-2005) yields healthy and noteworthy representative changes.

123. Regardless of a small labour pool and the limited availability of a trained and/or professional Bermudian workforce, there is still room for improvement on the part of companies in ensuring that their workforces are increasingly diverse and representative.

124. Workforce monitoring (the process of gathering the data for CURE's Workforce Survey Report) is the process used to collect, store, and analyse data about people's racial backgrounds. Each year, CURE also prepares individual company profiles for each workforce survey respondent. The profiles are provided to employers as a special service and resource tool for promoting equality of opportunity. The data garnered from surveying the workforce, which is then presented individually to the employers, may:

- Highlight possible inequalities;
- Indicate their underlying causes; and
- Direct employers on how to remove any unfairness or disadvantage.

125. In employment, CURE advocates that workforce monitoring assists employers in examining and benchmarking the racial/ethnic make-up of their workforce. The data resulting from a survey assist employers with analysing how personnel practices and procedures affect different ethnic groups. With regard to service delivery, ethnic monitoring may indicate which groups are using the organisation's services, and how satisfied they are with them. Employers and business owners are encouraged to consider ways of reaching underrepresented groups and making sure that their services are provided absent of discrimination and relevant to the needs of its clientele.

#### **Article 8 - Right to form and join trade unions**

126. The Trade Union Act 1965 as amended in 2002 provides that upon the establishment of a trade union, it shall be the duty of the committee of management or of trustees appointed to make application in writing to the Registrar General for registration within three months of establishment. It is an offence not to register an established trade union and purported members of an unregistered union who have knowledge of the status of registration also commit an offence under this Act. Once the application for registration is granted, the Registrar General issues a certificate of registration.

127. The 1965 Act makes provision for the contents of the rules for each registered trade union and that every worker shall have the right to choose to be or not to be a member of a trade union. Every employer who prevents or deters (by penalising or discrimination or threat of dismissal, etc.) an employee from exercising one of his statutory rights in respect of membership in a trade union commits an offence against the Trade Union Act 1965.

128. Section 2 of the Trade Union Act 1965 provides that this Act does not apply in relation to persons in the navel, military or armed forces or officers of the Bermuda Police Service, or prison officers.

129. The Government of Bermuda has secured the right of trade unions to federate and to join international organisations by prescribing in section 14 of the Trade Union Act 1965 that no registered trade union shall be connected to any organisation outside of Bermuda in such a manner as to place the trade union under the control of the international organisation. Thus, once the relationship between a local trade union and an international organisation does not result in the relinquishment of control of the local committee of management or appointed trustees, there is statutory support for Bermudian trade unions to form international associations.

130. There are ten registered trade unions in Bermuda with a total membership of approximately 9,300. There are no conditions or limitations placed on right of trade unions to function freely in Bermuda. Additionally, Bermuda continues to promote free collective bargaining via participation in registered trade unions.

#### **Article 9 - Right to social security**

131. The following branches of social security currently exist in Bermuda:

- Medical care;
- Maternity benefits;
- Old-age benefits;
- Invalidity benefits;
- Survivors' benefits;
- Employment injury benefits - Occupational Health & Safety;
- Family benefits - Department of Financial Assistance.

#### **Medical care**

132. There currently exists a Government subsidy program which covers standard hospital benefits for the following: 100% for children under the age of 16; 100% for those possessing an indigent status; 80% for those persons between the ages of 65-74; 90% for those persons 75 years and over.

133. In addition, the Government also administers a health insurance plan (HIP) which offers standard benefits with limited supplementary benefits and no major medical. This is offered as an alternative form of affordable health insurance coverage to that of the private health insurers and is a voluntary scheme.

### **Old age benefits**

134. The following benefits are provided in the contributory pension plan after the age of 65 years:

- Contributory pension;
- Non-contributory pension;
- Contributory old age gratuity;
- Contributory Widow/ers Allowance;
- Contributory widow's gratuity;
- Contributory disability benefit;
- Non-contributory disability benefit.

135. The current contributory pension plan is not supplemented by any informal or private arrangements. Any person, male or female has the right to claim the benefits from the contributory pension plan as long as they have met the legislated criteria. For the most part, this criteria lies in the form of having been employed as well as meeting the required number of contributions over a certain time period from their employment history. A review of the legislation for the contributory pension plan is currently in progress.

136. In 2005, just under 2% of Bermuda's GNP was spent on social insurance benefits while 11.2% was expended from the national budget compared to 11.8% spent in 1996. Due to Bermuda's ageing population, the growth in expenditure between 1996 and 2005 reflected the increase in persons 65 years and older.

### **Article 10 - Right to protection of the family**

137. The Employment Act 2000 provides minimum standards for employers to follow in respect of pregnant employees. Section 15 provides that pregnant employees are entitled to attend ante-natal appointments during working hours. Those who have completed at least one year of continuous employment are entitled to be paid their normal hourly wage. Section 16 provides that the minimum period of maternity leave to be granted by employers to pregnant employees who have completed at least one year of continuous employment is twelve weeks, consisting of eight weeks paid and four weeks unpaid leave.

138. Full time employees are afforded medical protection in the form of mandatory medical insurance. Social benefits include free child birth classes, mandatory registration of all births by the hospital, home visits and free counselling by government district nurses.

139. With a growing number of children becoming engaged in part time employment the economic activity of children in Bermuda was gathered for the first time in the year 2000. The Census data revealed that a total of 370 children between the ages of 12 and 15 years were working and also attending school. Of this total 190 were boys and 180 girls. Nearly 3 of every 5 children worked fewer than 10 hours per week, while 13% worked at least 20 hours or more. However, there was a minimum of only 5 children that were unpaid workers in their families' households, farms or businesses.

140. The Children Act 1998 as amended in 2002 is the primary piece of legislation responsible for the protection of and assistance rendered to children and young persons. It aims to protect them from economic and social exploitation by providing for among many other things, the meaning of parental responsibility, the establishment of the Child Care Placement Board, the establishment of a Family Court, the mandatory reporting of child abuse, care orders and child assessment orders for the protection of children, registered children's homes and residential homes, foster care, provisions for day care centres and financial relief for children. Thus, specific provisions and procedures are made for orphans, children without living biological parents, children who are abandoned or who are not safe with their parents.

141. The Employment of Children and Young Persons Act 1963 provides restrictions on the employment of children under the age of thirteen years, namely that:

- No child under thirteen shall be employed whatsoever except in light agricultural, horticultural or domestic areas where the parent is the employer;
- If a child is so employed, they must be provided with a continuous rest period of at least thirty-six hours and cannot be employed in any work likely to cause injury or which is prejudicial to his health or physical development;
- School age children cannot be employed during school hours or on days where he would ordinarily attend school;
- No person under the age of eighteen can be employed at night; persons sixteen to eighteen can be employed until midnight and employers must provide female young persons with adequate and safe transportation home.

142. Whilst it is deemed acceptable in Bermuda for school-age children to serve as grocery packers in supermarkets, every effort is otherwise taken to ensure compliance with the above restrictions.

**Article 11 - Right to an adequate standard of living (particularly  
the right to water and food, and housing)**

143. Bermuda households have experienced an overall improvement in its standard of living in terms of capacity to consume goods and services. In 2004, the average weekly household income was measured \$1,605 compared to the 1993 weekly income of \$1,310. The real gains in household income are due to a low inflationary economy combined with shifts in the

occupational distribution of Bermuda's labour force. The appreciating value of houses and absolute increases in rental income during the eleven-year period also attributed to real gains in household income.

144. With an overall literacy rate estimated at 97% in 1995; an infant mortality rate of 2.4 per thousand and life expectancy 79 years of age, the physical quality index for Bermuda is measured at 99.7.

145. Currently there is no established poverty line in Bermuda. However, ground work is being carried out to develop a poverty line by end of 2007. The average income of the bottom 40% of households in Bermuda was \$43,856 in 2004.

### **The right to adequate food and water**

146. The Bermuda Government supports the right to adequate food by mandating the Department of Financial Assistance to provide a food allowance to indigent persons/families. This allowance is updated yearly according to the Consumer Price Index.

147. The Bermuda Government supports the right to adequate water by encouraging each household and facility to include a roof cistern collection system. Also, the Bermuda Government provides water via a central water system to its' housing facilities, and water depots.

148. The Central Laboratory will test water for safety purposes island-wide, and if necessary the Environmental Health Department will provide educational information to residents in making their water safe to drink. By law, well water is to be used only for non-drinking purposes.

149. Nutritional Surveys are built within the Department of Statistics Household Expenditure Survey 2004; the Department of Health Adult Wellness Survey 1999, 2006; the School Wellness Survey 2001; the Child Development Survey 2002; and the Nutritional Risk Senior Survey 1999. There are limited nutritional surveys.

150. Nutritional Monitoring at present includes the annual Nutrition Policy monitoring in government schools by the Healthy School Program. In process (in the setting up stages) is the monitoring of height, weight, head circumference measurements of infants and the monitoring height, weight and BMI measurements of pre-school children, primary 1 students and fifteen year old students by the Department of Health-Child Health Program.

151. The Department of Health-Nutrition Services provides the nutritional expertise for the data collection included in the above cited surveys.

152. Presently, data is not collected and/or analysed in terms of geographical areas for hunger and malnutrition or thirst in all of the vulnerable or disadvantaged groups.

153. Although, there are no published studies regarding the malnutrition or hunger status of individuals/groups in our island, the changes that would negatively affect the above groups would be the increased cost of housing, electricity, food (influenced by non-governmental agencies). Choices between paying for housing, electricity, and fresh vs. canned foods negatively affect individual's nutritional health.

154. The Department of Financial Assistance is mandated to ensure that individuals with insufficient financial resources have access to services in order to gain, maintain or regain a minimum standard of living while encouraging economic independence.

155. There has been no change in the methods of food conservation and distribution other than those which have been developed by private industry as part of the normal development of these markets and technologies. This is not surprising as the food industry in Bermuda is highly advanced and uses current technologies.

156. The vast majority of water collection and distribution in Bermuda is not centralised but rather is based on an individual dwelling basis. Water is collected on roofs and stored in cisterns which each home is equipped with. In general, access to clean water is readily available to all Bermuda residents. This is not an issue with the possible exception of a small number of homeless people.

157. The vast majority of food supplies for Bermuda are imported. Local food production and the potential for increasing such are not sufficient to satisfy local demand. There has been no legislation to ensure efficiency in food production. The only truly relevant legislation is the Development and Planning Act 1974 which protects agriculture land from development thereby theoretically preserving the food production potential.

158. No such measures have been taken by the Government in order to ensure an equitable distribution, in terms of both production and trade, of world food and water supplies in relation to need. This reflects the small island nature of Bermuda, the fact that Bermuda has become urbanised to a large degree, and the fact that Bermuda is a consumer nation that imports virtually all food resources. Food and water are readily available to all Bermuda residents.

### **Right to adequate housing**

159. The Bermuda Housing Corporation provides public housing in Bermuda by promoting affordable home ownership. The Corporation manages over 550 government owned and private sector rental units. In 2006, the approximate number of persons housed by the Housing Corporation was roughly 1,850.

160. The 2000 Census reported that of the total population of 62,059, 26% of persons were housed in homes owned with a mortgage; 22% were in homes free of a mortgage; 34% lived in rented unfurnished dwellings while 13% occupied furnished rental units.

### Article 12 - Right to health

161. There has been no significant change in the overall physical and mental health of the Bermuda's population. In terms of a national health policy, the Department of Health has produced a National Health Promotions Strategy to further reorient services towards prevention.

162. Bermuda's Department of Health commits to the WHO primary health-care approach by participating in programmes and initiatives sponsored by the WHO. The following indicators highlight the status of key social issues in Bermuda:

#### WHO Indicators

Measure	Estimate
Infant mortality rate	1.2/1,000 live births
Population access to safe water	100%
Population access to adequate excreta disposal facilities	100%
Infant immunisations	Diphtheria, pertussis, tetanus, polio coverage is 90% (This is in fact by age 5 years) 1st MMR coverage is 96% (which would be at age 15 months) 2nd MMR coverage is 84% (which would be at age 5 years)
Life expectancy	76.3 years for males; 81.7 years for females
Proportion of population with access to trained personnel for the treatment of common diseases and injuries, with regular supply of 20 essential drugs, within one hour's walk or travel	100%
Proportion of pregnant women having access to trained personnel during pregnancy	100%
Proportion of pregnant women attended by trained personnel for delivery	99%
Maternal mortality rate (before and after childbirth)	< 1/1,000 live births
Proportion of infants with access to trained personnel for care	100%

*Note:* Data not disaggregated.

163. In 2005, just roughly 6% of Bermuda's GNP was spent on health care. This reflected a fractional decline in funds allocated to health care compared to the 6.2% recorded in 1996. This lower proportion is a direct result of Bermuda's GNP increasing at a much faster rate than its population. However, there were some gains experienced as health care expenditure accounted for 17% of the National Budget in 2005 up from a 15% outlay in 1996.

164. Currently, there are no groups or geographical areas in Bermuda that are significantly worse off than any other. There have been no laws or policies introduced that have affected negatively on the health of the population. Access to health care is unrestricted through the general hospital and the medical clinic.

165. However, the Government is presently reviewing the operation of the Medical Clinic. This clinic operates as a programme provided by the general hospital. It caters to those persons with no or inadequate medical insurance coverage. The Government has set a timeline of 2007 for the review and implementation of alternative services to the Medical Clinic.

166. The Department of Health continues to provide comprehensive prenatal care for all. In addition, there is pre-natal care and home visits for new mothers and newborns. It is currently reviewing policies associated with home and midwife assisted births.

167. The Ministry of Education provides a child development programme that assesses the development of children under the age of 2 years.

168. The Epidemiology and Surveillance Unit ensures the surveillance and investigation of communicable and non-communicable diseases and follows up out breaks such as food and waterborne diseases. It is responsible for routine collection, analysis, interpretation and distribution of information relevant for the control and prevention of communicable and non-communicable diseases. It also provides health education to health professionals and the general public.

169. The Government provides a subsidy for persons over 65 years old with regards hospitalisation. In addition, the Government has introduced assistance, worth \$1200 per year, for the cost of medicines for those seniors registered with the Hospital Insurance Plan, which is a government managed health insurance scheme. Additionally, these seniors are entitled to 4 covered doctor's visits per year.

170. The Bermuda Health Council was established and became operational in 2006. The mission of the Council is to ensure that all residents of Bermuda have appropriate access to quality health care while exercising stewardship of Bermuda's resources. The Council will assist in coordinating, regulating and providing strategic direction for health care in Bermuda. In addition, public consultations have been held regarding the location and infrastructure for the new acute care hospital.

171. Within the Department of Health is a Health Promotions section. During the past year the Health Promotions Office with other major healthcare stakeholders developed a National Health Promotions Strategy. The purpose of the strategy is to provide a clear and shared vision for health promotion across all public health stakeholders in the community. The strategy will focus on several areas of concern that include obesity, smoking cessation, HIV/AIDS and diabetes.

172. Bermuda participates in programmes and initiatives by the WHO and PAHO, the Caribbean Epidemiology Centre and the Caribbean Health Research Council that focus on laboratory support, disease surveillance and monitoring, staff development and continuing education.

### **Article 15 - Right to culture**

173. The Government of Bermuda has instituted a variety of programmes and projects which afford members of the local community to take part in Bermuda's cultural life. In particular the Department of Community & Cultural Affairs has been mandated to "provide programmes that raise people's awareness of and appreciation of Bermuda's cultural heritage..." Within the Department, there are three officers (supported by an Administrative Assistant) who are specifically tasked with achieving this mandate. Since the last report submitted in July 2000 the Department has not only expanded to become the Department of Community & Cultural Affairs, but it has also added a Folklife section. Though a fledgling section within in the Department, the Folklife section is producing and developing some most worthwhile programmes and initiatives.

174. Budget allocations are used to provide a number of cultural programmes being produced under the auspices of the Folklife division including the following:

- Historical Heartbeats Lecture Series - a 7-part lecture series which focuses different aspects of Bermuda's historical and cultural heritage;
- Promotion of the Literary Arts - done through writing workshops, Writer in Residence programmes, the publication of a Bermuda Poetry Anthology, and Literary Awards funding honouring excellence in Bermudian writing;
- Publication of a Folklife Calendar highlighting local tradition bearers and important dates in Bermuda's;
- Documentary on Bermuda's traditional Gombey dancers;
- Establishment of ongoing oral history projects, and funding historical research projects;
- Creation of a digital folklife archive including online searchable database.

175. The Department has recently created the North Hamilton Train Tour which provides historic insights into the development of black businesses and life during the segregated periods of the early to mid 1900's of the North Hamilton area.

176. The Department of Community & Cultural Affairs continues to offer a variety of programmes throughout the month of May, which is Heritage Month, that celebrate the diversity of our cultural heritage. Such events include:

- Talks by noted local historians;
- Performing Arts Festivals;
- Music Festivals, organised in conjunction with non-government entities;

- Street Festivals, held once per week from April through October. This is organized in conjunction with the Bermuda Chamber of Commerce;
- Airing of locally produced documentaries that feature aspects of Bermuda’s cultural and architectural heritage;
- Promotion of cultural heritage talks, by local historians and tradition bearers, in the schools around the island. These talks explore Bermuda’s diverse heritage and culture with the students.

177. The Department continues to produce a special Heritage Month magazine with the assistance of staff at the Royal Gazette. This publication affords the reading public opportunities to write, read and reflect upon Bermuda’s cultural life, its folklore, traditions and history. The distribution of this RG magazine is substantially higher than that of the Bermudian because each copy is provided to the public, at no extra cost, with the purchase of the daily newspaper. The Department has also produced a number of brochures on important aspects of Bermuda’s culture and/or history to further inform and educate the public.

178. Other than the events noted above, and those activities reported previously, mention should also be made of other cultural programmes and events hosted by the Department which the public is encouraged to attend. These include the Bermuda Day Parade - which is now entirely organised by the Department of Community & Cultural Affairs; the Emancipation Celebrations; the Premier’s Concert, the Annual Gombey Festival and the Seniors’ Week of Activities. Also the Bermuda Heart & Soul programme (previously referred to as the Fall Into Spring programme) was transferred to the Department of Community & Cultural Affairs from the Department of Tourism with effect from April 2004. This programme runs from November through March and provides audiences with glimpses into aspects of Bermuda’s culture, traditions, foods (by way of demonstrations), natural environment by way of walking and bike tours, musical performances by the Bermuda Regiment, Gombey performances, craft market demonstrations and the like.

179. The Department also continues to use the medium of television, via such programmes as “Treasures” and “Learn-a-lots” to inform the public of other aspects of Bermuda’s history and current culture.

180. The Department of Community & Cultural Affairs also provides financial support from its own budget for the promotion and advancement of the visual and performing arts and to non-government organisations involved in the preservation and promotion of Bermuda’s history. The organisations which receive regular funding from the Department are:

- |                               |           |
|-------------------------------|-----------|
| – The Bermuda Arts Council    | \$172,000 |
| – The Bermuda National Trust  | \$200,000 |
| – The Menhuin Foundation      | \$ 77,000 |
| – The Bermuda Society of Arts | \$ 68,780 |

- The Bermuda Heritage Museum      \$ 20,000
- The Bermuda National Gallery      \$ 41,000
- The Bermuda Historical Society      \$ 6,000
- The St. George’s Historical Society      \$ 3,000

181. Furthermore, the funding received from the Department by the Bermuda Arts Council enables the Council to encourage cultural links at the international level. The Council itself also helps to fund local artists exhibiting or performing on the international arena; and attend overseas workshops and conferences. The Council also helps fund appearances in Bermuda of performing artists from other countries. The Council also seeks to promote international contacts and cooperation by providing funding to such bodies as the Bermuda Film Festival. The Bermuda Arts Council is governed by the Bermuda Arts Council Act 1969, which legislates the Council’s mandate to provide financial support to students of the visual and performing arts. The legislation also sets out the operational procedures of the Council.

182. The Department of Community & Cultural Affairs also seeks to provide local visual and performing artists with exposure on the international stage by directly supporting artists’ performing in and attending workshops and conferences overseas.

183. The Department has also organised Bermuda’s representation and participation in such singularly significant events as CARIFESTA; and the 2001 Smithsonian Folk life Festival. During this event, held over a period of ten (10) days on the National Mall in Washington D.C., the Bermuda Connections programme, one of the featured programmes of the 2001 Festival, was visited and experienced by close to one million people. The Bermuda contingent, made up of members of the Bermuda Regiment, the Gombey dancers, chefs and persons in the hospitality industry, tradition bearers in the “arts of play”, tradition bearers in the boat building and sea gull racing arenas, masons and builders, cooks, story tellers, musicians, cricketers and genealogists all gathered on the National Mall and shared the vibrancy and diversity of Bermuda’s culture traditions, folk life and heritage with the world. A very important, albeit intangible by product of Bermuda’s participation in the 2001 Smithsonian Folk life Festival was a renewed sense of pride in who we are as a people.

## **CHAPTER 2. REPORT FROM THE BRITISH VIRGIN ISLANDS**

### **I. GENERAL INFORMATION**

184. The following statistics represent pertinent demographic information relevant to the British Virgin Islands (“BVI”) for the period of 2000 to 2005. It is clear from the below figures that the BVI continues to experience a steady growth in its population, particularly its immigrant population. Current statistics further indicate that greater than half of the BVI population is comprised of immigrants from Commonwealth Caribbean countries, North America, Great Britain, Europe and other countries.

	2000e	2001	2002e	2003e	2004e	2005e
Population	20 254	23 161	23 689	24 296	24 997	25 802
Population Density	132.37	150.4	153.82	161.86	162.32	167.55
Male Population	10 429	11 442	11 721	12 041	12 424	12 861
Female Population	9 825	11 724	11 967	12 248	12 572	12 940
Nationals	9 911	9 189	9 398	9 639	9 917	10 237
Expatriates	10 343	13 972	14 291	15 287	15 080	15 565
Nationality Ratio	51.07	65.77	65.76	63.05	65.76	65.77
Births	325	314	253	269	316	283
Crude Birth Rate	16.04	13.56	10.68	10.79	12.64	10.97
Total Fertility Rate	2.07	1.51	1.26	1.31	1.56	1.36
Teenage Deliveries	37	26	29	28	36	27
Teenage Deliveries as % of all Deliveries	11.24	12.23	8.1	10.4	11.32	9.5
Deaths	91	101	97	104	120	106
Crude Death Rate	4.49	4.36	4.09	4.17	4.8	4.11
Infant Deaths	1	3	6	3	4	0
Infant Mortality Rate	3.08	9.55	23.72	11.15	12.66	0
Under 5 Deaths	2	3	8	4	6	1
Under 5 Mortality Rate	6.15	9.55	31.62	14.87	18.99	3.53
Maternal Deaths	0	0	0	0	0	0
Maternal Mortality Rate	0	0	0	0	0	0

185. The British Virgin Islands continues to maintain a political structure similar to other Overseas Territories. The Executive Council, which is chaired by Her Majesty's representative, His Excellency the Governor, the Legislature, the Attorney General and the Judiciary are the primary institutions of government, supported by the provisions of the *Virgin Islands (Constitution) Order, 1976 (UK SI No. 2145)*.

186. In 2004, the Government of the Virgin Islands appointed a Constitutional Review Commission to review the current state of the Virgin Islands Constitution with a view to recommending sustainable revision. This initiative was on the acceptance of an invitation extended to all Overseas Territories by Her Majesty's Government in the United Kingdom in 2001, to appoint a local commission to review and make recommendations for changes to and advancement of the Constitution. In its 2005 report, the Commission recommended the inclusion of a Human Rights Chapter into the Constitution specifically, in addition to other amendments. This recommendation was whole heartedly supported by the local Human Rights Reporting Coordinating Committee (HRRCC), which, in its 2000 report, also recommended that a human rights chapter be inserted in the Virgin Islands Constitution as a matter of priority. Recent reports indicate that in view of the continuing work on this issue, the implementation of this chapter in the Constitution will be realised in the near future.

187. The Commission received wide support in its many public meetings for this recommendation. It is the general consensus that the ideal of free human beings enjoying civil and political freedoms and the protection for other fundamental human rights and freedoms can only be achieved if these rights are prescribed in fundamental law.

188. The decision of the United Kingdom Government to confer full British citizenship on all Overseas Territories citizens, following the March, 1999 White paper: "Partnership for Progress and Prosperity: Britain and the Overseas Territories", has been well received in the Virgin Islands. As one of the tangible benefits of such citizenship many Virgin Islanders have applied for and have been granted United Kingdom passports. Our records indicate that since May 2002 until April, 2007, a total of 6,187 passports have been issued to Virgin Islanders and Belongers.

189. In addition, another significant benefit extended to Virgin Islanders has been the recent policy decision to recognise Virgin Islands students studying in the United Kingdom as full British citizens for the purposes of lower university tuition fees. This advancement has been equally welcomed by the Government and people of the Virgin Islands.

## **II. RESPONSE TO THE CONCLUDING OBSERVATIONS**

### **Response to paragraph 35**

190. The campaign against domestic violence continues via printed and other media. Messages and seminars are sponsored by both the government and non-government organisations to increase the public's awareness of the presence of domestic violence and the need to report such behaviour to the appropriate authorities. Healthcare providers are required to report incidences of domestic violence. Although tangible support is offered by the Family Support Network, churches and other non-government organisations, often times, the victims (mostly women) refuse to file charges against the perpetrator because of fear of losing income and other forms of security (e.g. housing). It is believed that a significant number of offences against women go unreported and there are instances where women have withdrawn complaints, even at a late stage, in proceedings brought by the judicial system.

### **Response to paragraph 40**

191. The territory has developed an HIV/AIDS Prevention and Control Project jointly with the four British and six Dutch Overseas Caribbean Territories and the proposal has been submitted to the European Union for funding. The proposal has been determined to be eligible and the funds have been set aside pending the final approval from the EC Office in Brussels. The Government is committed to an expanded response to the HIV situation through the development of a National Plan for STI/HIV/AIDS.

192. The Government through the multi-sector initiatives of the National Aids Programme has implemented programmes focused on prevention education to reduce the spread of HIV infection and decrease the impact on individuals, families, the larger community and vulnerable groups - including youth and women. These initiatives include:

- Implementation of the Prevention-of-Mother-to-Child-Transmission (PMTCT) Programme and the availability of the appropriate medication for pregnant women and their babies to reduce the spread of HIV to the next generation;
- Training for health care providers and community volunteers to provide Voluntary Counselling and Testing at various sites in the community;
- Training for health care providers and community volunteers to provide “free” Rapid Testing at various sites in the community;
- Providing anti-retroviral (ARV) medications through the Hospital Pharmacy at reduced prices through the collaborative efforts of the OECS/Pharmaceutical Procurements Service and the Clinton Foundation;
- Providing and distributing “free” male and female condoms at various community sites to reduce the risk of sexually transmitted infections and HIV;
- Supporting Annual National Summits for Youth on HIV/AIDS to enhance the development of healthy sexual lifestyles and healthy sexual choices;
- Implementation of a national policy and guidelines for HIV in the workplace which includes a sensitisation-training programme focused on sexual health, HIV, stigma and discrimination for the public and private sector.

193. The BVI Government has established partnerships with NGOs and the private sector to initiate various programmes and services related to prevention, care, treatment and support for people infected and affected by HIV. Government has assisted the development of the HIV/AIDS Foundation, a non-profit organisation. This Foundation offers financial and supplemental funds to people living with HIV and to access medical follow-up and medication.

### **III. INFORMATION RELATING TO SUBSTANTIVE ARTICLES OF THE COVENANT**

#### **Article 1**

194. Self Determination. While the specific issue of pursuing independence and attaining nationhood for the Virgin Islands has not been examined at length since the last report, the people of the Virgin Islands continue to be aware of their right to self determination and this is an ongoing subject for public education. In the 2003 Constitutional Review, public consultation confirmed a general sentiment that the people of the Virgin Islands did not feel that immediate moves towards independence should be made at that time. The recent 2004 Constitutional Review Commission also did not consider this issue at length, but noted the views previously expressed by past committees and members of the public. Nevertheless, as a people Virgin Islanders are cognisant of their right to determine their political status, and when deemed desirable the matter of independence will be purposely and resolutely pursued.

### Article 3

195. The Social Development Department under the auspices of the Ministry of Health and Social Development is committed to empowering women at all levels. The Department sponsors on-going training in various types of skills including sewing and craft, baking and basic computer skills. In addition, sessions which focus on strengthening parents and caretakers parenting skills and coping abilities are held on a quarterly basis. Recognition is also given to the role of the fathers (males) in the nurturing of children and support of mothers. Despite the extremely poor response from males, efforts are made to include them in family and male-oriented workshops, seminars and programmes.

### Article 9

196. Social Security. The right to social security, including social insurance is provided for and is given significant governmental and public support in the Virgin Islands. The Social Security Board was established under the Social Security Ordinance, Cap. 266. This Ordinance provides for the establishment of a social security fund for the Virgin Islands, and the creation of the Board to administer such fund. The principal functions of the Board include the collection of contributions, which are received from employers, employees, self employed persons, government and non-government organisations, and the payment of benefits. Since its inception, the social security fund has substantially increased such that at the end of 2006, the Board recorded assets in the amount of two hundred and seventy-six million (US\$276,000,000.) dollars. Total contributions increased by 3.84 million dollars in 2006 for a total of 23.17 million dollars in annual contributions. The total payment of benefits at the end of 2006 amounted to 6.8 million dollars, where the greatest amounts were paid for maternity allowances and sickness benefits.

197. The Social Security scheme continues to provide adequate social insurance for Virgin Islands, although the issue of the provision of a comprehensive national insurance scheme is under review. Qualified insured persons are now entitled to sickness, maternity, employment injury, invalidity, age, funeral or survivors benefits. Sickness Benefit is paid to an insured and qualified person between the ages of 15 to 65, who is sick and unable to work. The Rate of Sickness Benefit is 66 2/3% of the average insurable earnings during the 13 contribution weeks immediately before the illness began. Sickness Benefit is paid for a period of up to 26 weeks providing the illness continues.

198. Maternity benefit is paid to a woman who is on leave from work due to her pregnancy or who has given birth. Maternity Benefits consists of an allowance or a grant. This allowance is paid to a woman, for up to 13 weeks, while she is on leave from work immediately before and after her confinement. The Rate of maternity Allowance is 66 2/3% of the average insurable earnings in the 39 contribution weeks. A maternity grant is a one-time payment to assist with the general expense of having a baby.

199. Employment injury benefits are awarded to an insured person who is unable to work because of a work related accident or a prescribed disease. This benefit is divided into: injury benefit, medical expenses, disablement benefit, funeral grant and death benefit. Injury benefit specifically is paid weekly at a rate of 75% of the average weekly insurable earnings, to an

employed person who is unable to work because of an employment accident or disease. Providing that the injury continues, this benefit may be paid up to a period of 26 weeks.

200. Funeral grants are another benefit payable to an insured and qualifying person. The amount of this grant is dependent on the age of the deceased. The maximum amount payable for this grant is the amount of two thousand dollars (US\$2,000.) where the deceased person had exceeded the age of 15 years.

201. Survivor's Benefit is paid to the qualified survivors or a deceased insured person. It is paid in the form of a grant or a pension. Qualifying survivors include the husband or wife, or common law husband or wife of at least three (3) years in the same household, of the deceased insured person. Also included are the children of a deceased person, who are under the age of fifteen (15) years or, if in full-time education, under the age of twenty-one (21) years. A widow or widower survivor's pension or grant is calculated at 2/3 of the age pension earned up to the death of the insured person. An orphan's pension or grant is calculated at 2/3 of the widow/widower survivor's pension, and a child's pension or grant is calculated at 1/3 of the widow/widower survivor's pension.

#### **Article 10**

202. Right to Family life and the Protection of children. The Convention right to family life is encouraged and supported by law in the Virgin Islands. Since the last report, the Immigration and Passport Ordinance was amended in recognition that husbands too emigrate with their wives and family, where the wife has obtained employment within the Virgin Islands. Section 21 provides for the entitlement of a number of categories of persons to land and embark in the Territory. Section 21(1)(i) was specifically amended by the *Immigration and Passport (Amendment), 2006* where the words "wife and children" were substituted for the words "husband or wife and children". The effect of this amendment to provide that where a non-national husband or wife are employed in the Territory within Her Majesty's Forces on duty, the service of the Government, in the service of a Caribbean inter-regional organisation or on official business in the Territory for any country of the Commonwealth, the remaining family members, inclusive of a husband specifically, should have the right to land and embark in the Territory.

203. Significant strides have been made in implementing a suitable legislative framework to provide for the protection of children, and for their appropriate treatment within the criminal justice system. In 2005, the Legislative Council enacted three pieces of legislation, namely, the *Children and Young Persons Act, 2005*, the *Criminal Justice (Alternative Sentencing) Act, 2005*, and the *Youth Act, 2005*, which collectively provide for a number of matters relating to children and young persons who are in need of care and protection, or who are before the court.

204. In general the Children and Young Persons Act, 2005 provides for the protection and security of children and young persons within the Territory. A child is defined as person under the age of 16 years whilst a young person is specified to be a person who has attained the age of 16 years, but is under 18yrs. The Act places a duty on educators, health care professionals, social workers or any head or employee of an institution or organisation responsible for the care and protection of children, or who whilst carrying out their professional duties during contact with children and young persons, is put on inquiry, or has reason to be put on inquiry of the

possibility of abuse or ill-treatment of a child. These persons are expected to report such matters to the police. Failure to do so is an offence under the Act, for which one a person is liable on summary conviction to a fine not exceeding six thousand dollars, or imprisonment for a term not exceeding three years.

205. A major part of this Act makes provision for the treatment and trial of young persons, including the procedure for proceedings in the Youth Court. Matters such as the separation of young offenders from persons aged eighteen years and over, while being detained at police stations, bail or detention of young persons, and committal orders for the committal of young persons into the care of fit and proper persons, are addressed.

206. This Act also provides that where a committal order is made in respect of a child or young person, placing the responsibility of the care and supervision of that child on a fit a proper person, a number of persons are obliged by law to make contributions to that child or young person. These persons include the father, adopted father or stepfather, the mother, adopted mother or stepmother, and any person who at the date of the order was cohabiting with the mother of the child or young person, whether that person is the putative father or not.

207. By recent amendment, (*Criminal Code (Amendment) Act, 2007, (No. 3 of 2007)*) Child pornography has been expressly made an offence. By section 284A (2), any person who intentionally, publishes or is concerned in the publication of, or 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. It had been previously noted that the existing Criminal Code made no specific provision for child pornography and therefore certain acts which fell outside existing law could not be criminalized as acts of child pornography.

208. Human trafficking of minors for exploitation has been recognised as another crime being perpetrated against minors as well as to women. The *Criminal Code, 1997* was also amended recently to create the offence of human trafficking of minors. The amendment provides that any person who is concerned with the trafficking of minors is liable on indictment to imprisonment for life.

209. The enactment of the *Criminal Justice (Alternative Sentencing) Act, 2005* has introduced significant law reform within the criminal justice system of the Virgin Islands. In general, this Act provides for alternative sentencing powers of the court, which bestows upon the Court widened powers to grant more suitable sentences in appropriate cases. Firstly, without prejudice to section 29 of the Criminal Code, where a court is of the opinion, having regard to the nature of the offence, other relevant circumstances, and the character of the offender, that it is not expedient to inflict punishment on the offender, or that no other order is considered appropriate, the court may make an order discharging the offender, subject to certain conditions. These conditions include: the condition that the offender should not commit an offence within a prescribed period, not exceeding three years from the date of the order, and that should the offender commit an offence, he or she will be liable to be sentenced for the original offence.

210. In respect of children and young persons, the Act provides that a court may alternatively make an attendance centre order where a child or young person has found guilty of an offence punishable by imprisonment, or could have been committed to prison for default of payment.

The underlying policy is for children and young persons to be given a non-custodial sentence, where the court considers that it may be appropriate. The Court is also empowered to make a care order committing a child to the care of the Department of Social Development. In such case, the Department of Social Development will assume the responsibilities of parent or guardian. The discretion to grant community service instead of sentencing a young offender to imprisonment is another power provided under this Act. Community service is widely recognised as a suitable and often more appropriate alternative sentence to imprisonment, and deliberate provision has been made for this and other non-custodial orders in the Virgin Islands. Other non-custodial orders include probation orders, curfew orders, combination orders, and drug rehabilitation and after-care orders. The court would not ordinarily make a drug rehabilitation and after-care order unless it is satisfied that the offender is dependent or has a propensity to misuse drugs, that the offender may be susceptible to treatment and is willing to comply with stipulated requirements.

211. Another significant amendment is for the court to make a parenting order in respect of a person who is a parent or guardian of the child or young person. A parenting order requires the parent to comply with certain requirements for a specified period, and also to attend at least once a week, for unto a period of three (3) months, mandatory counselling or guidance sessions.

212. The Youth Courts Act, 2005 repealed the Juvenile Courts Act, Cap. And provides for the establishment of one or more Youth Courts in the Territory.

### **Article 13**

213. Education. The *Education Act, 2004* substantially revised the previous Education Act, Cap. 112. The new legislation now provides for a number of matters which were not included. For one thing, it expressly provides for a compulsory school age of 5 to 16 years and, by section 28, makes it mandatory for every child to attend school until the last day of the school calendar in the school year in which he attains 16 years of the age or receives his diploma or certificate, whichever occurs first. By section 15, the legislation expressly declares that subject to available resources, all persons are entitled to receive an educational program appropriate to their needs, and in accordance with the provisions of the Act.

214. This Act also addresses matters such as: Students rights and responsibilities, a national curriculum, parental rights and responsibilities in relation to their child's education, clearer procedures for discipline of students, early childhood education, home education, special education, technical and vocational education and training, and the establishment of a national curriculum for public schools and government assisted private schools. Provision is also made for the appointment of an Education Review Committee, to be appointed every five years, to review and report on the education system of the Virgin Islands, and the establishment of an Education Appeal Tribunal to hear any matter of appeal pertaining to a decision made by any education administrator or body.

215. The subject of education continues to be high on the agenda of Government, and in addition to a new Education Act, recent policy has been established to provide free tuition for Virgin Islanders and Belongers at the local Community College.

216. As such, while the Virgin Islands Constitution does not declare the right to education as a fundamental human right, and it was also not recommended by the Commission that this right should attain Constitutional status, education and the right of Virgin Islanders to adequate and appropriate education is protected by legislation.

## **CHAPTER 3. REPORT FROM THE CAYMAN ISLANDS**

### **Introduction**

217. The International Covenant on Economic, Social and Cultural Rights was extended to the Cayman Islands on May 20, 1976 by virtue of the Islands' status as a British Overseas Territory of the United Kingdom. The Fourth Periodic Report was submitted by State Parties under Articles 16 and 17 of the Covenant on April 15, 2000.

218. The present Report seeks to identify the progress of the Cayman Islands in the implementation of the provisions of the Covenant since the last report and highlight the recommendations for future action that have been made to ensure compliance. The information and statistics contained herein have been provided by a number of government ministries, departments and units as well as other public bodies and agencies.

#### **1. Key country statistics**

Population	54,465	(in 2005)
Number of men per 100 women	101	(in 2005)
Percentage of population under 15	16.6%	(in 2005)
Percentage of population over 65	5.8%	(in 2005)
Percentage of population in urban areas	48.2%	(in 2006)
Religion	Christian - majority	
GDP	£1.1 billion	(in 2005)
GDP per head	£23,601	(in 2005)
Inflation	7%	(in 2005)
Government Deficit/Surplus	£52.8 million	(in 2005)
Government Debt	£102.2	(in 2005)
Employment rate	96.5%	(in 2005)
Languages	English	

#### **2. General political structure**

##### **Overview**

219. The Cayman Islands is a parliamentary democracy with judicial, executive and legislative arms. The present Constitution which came into effect on August 22, 1972 provides for the government of the Cayman Islands as a British Overseas Territory. It is the third written constitution issued for the Islands by the British Crown since 1959, although there is a history of

over 160 years of representative government. With the growth and development of the Islands, the constitution has evolved. To date, however, no provision has been made for the office of a Chief Minister.

### **The Governor**

220. Appointed by Her Majesty's Government, the Governor presides over the Cabinet, whose advice must be taken except in matters of defence, external affairs, internal security, the police and the civil service. The Governor may act against the Cabinet's advice where it is considered to be in the public interest. In cases of urgency, this may be done without the approval of the Secretary of State but this must be reported to him. Further, the Governor is not required to consult with the Cabinet on less important matters which do not warrant such consultation, or where it would be prejudicial to do so (although instances such as these must be reported to the Cabinet).

### **The Cabinet**

221. In May 2001 the Governor appointed a Constitutional Modernisation Review Commission that made recommendations for changes to be made to the political process and governmental structure. Thereafter, by virtue of the Cayman Islands (Constitution) (Amendment) Order 2003, the Executive Council became known as the Cabinet and the offices of both the Leader of Government Business and the Leader of the Opposition were constitutionally recognised and appointed.

222. The Cabinet is comprised of three official members and five elected members known as ministers. The official members are the Chief Secretary, the Attorney General and the Financial Secretary. These members are appointed by the Governor in accordance with Her Majesty's instructions and hold seats on the Legislative Assembly.

223. The five ministers are voted into office by the 15 elected members of the Legislative Assembly. Each member of the Cabinet is allocated a portfolio of responsibilities by the Governor. By virtue of the principle of collective responsibility, all Cabinet members and ministers are obliged to support in the Assembly any measures approved by Cabinet unless the Governor has given prior approval to act otherwise.

224. The functioning of the government is performed by some 50 departments in addition to a number of statutory boards and authorities each of which has been established to undertake specific functions.

### **The Legislative Assembly**

225. The fifteen elected members of the Assembly represent the Islands' six districts. The Governor must dissolve the Assembly four years after its first meeting, unless it has been dissolved sooner, and a general election must be held within two months of such dissolution.

## **The Judicial Arm**

226. The Cayman Islands has three resident judges, three magistrates and a number of justices of the peace, some of whom serve as lay magistrates from time to time. Magistrates are appointed by the Governor on the advice of the Chief Justice. Judges of the Grand Court and the Court of Appeal are appointed in accordance with special instructions from the Secretary of State of the United Kingdom on behalf of her Majesty the Queen. The Chief Justice is appointed by the Governor on the advice of the Secretary of State.

227. Justice in the Islands is administered at three levels - the Summary Court (including the Youth Court), the Grand Court and the Court of Appeal. The Youth Court has the general jurisdiction to try all summary offences committed by juveniles under 17 years of age. A magistrate, either alone, sitting with two justices of the peace (at least one of whom must be of the opposite gender to the magistrate) or sitting with three justices of the peace (one of whom must be female), presides over the court.

228. The Summary Court exercises civil and criminal jurisdiction. Coroner's inquests are held in this Court where a magistrate sits with a jury as coroner for the Islands. Appeals from the Summary Court lie to the Grand Court.

229. The Grand Court is a superior court of record and administers the common law and the law of equity of England, as well as locally enacted statutes and applied laws. Appeals from the grand Court lie to the Cayman Islands Court of Appeal which is composed of a president and no less than two judges of appeal. A judge of the Grand Court may also exercise any of the powers of a single judge of the Court of Appeal. Further appeal lies, in certain circumstances, to the Judicial Committee of the Privy Council in London.

### **3. General framework within which human rights are protected**

#### **The Constitution and the Courts**

230. At present, the Constitution of the Cayman Islands does not contain a bill of rights so that constitutional redress cannot be sought for the alleged violation of any of the rights set out in this Covenant or any other international convention. This was confirmed by the Court of Appeal in an appeal from the Grand Court in the case of Grant v. John A. Cumber Primary School 2001 CILR 78 at 85. The local courts may construe the provisions of these conventions as persuasive only. While the common law may be invoked for the protection and enforcement of rights at times, the desirability of constitutional reform has been widely recognised since 1991 when steps were taken to review the existing Constitution and make recommendations for reform.

231. In this regard, in 2001 a new panel of Constitutional Modernisation Review Commissioners was appointed to continue this exercise and in their 2002 report, they endorsed the earlier recommendation for the inclusion of a constitutional bill of rights. At present there is a

draft constitution under consideration which includes a chapter of fundamental rights. The rights set out therein are largely based on those of the European Convention on Human Rights. The process of reform is being vigorously pursued and a Secretariat has been established for this purpose.

### **The Right of Individual Petition to the European Court of Human Rights**

232. This right was re-extended to the Cayman Islands in March 2006 so that where an individual alleges that any of the Convention rights or Protocols has been infringed; he may petition the Court for relief. As the Court's judgments are binding, the Islands will be obliged to comply with them.

233. The jurisdiction of the Court is not restricted to nationals of a State which is bound by the Convention. The violation complained of must simply have been committed by one of those States within its territory. Accordingly, nationals of other countries who are resident in the Islands are equally entitled to invoke the Court's jurisdiction for unlawful acts alleged to have been committed within the Islands. Further, the acts and omissions of the Cayman Islands Government may also be the subject of an application to the Court, although it should be noted that the case would be brought against the United Kingdom which is the signatory State to the Convention.

234. The individual right to petition can only be exercised where the individual has exhausted all available domestic remedies. In the context of the Cayman Islands, this will usually mean that an application has been made to the appropriate court and appellate court(s) where applicable.

### **The Office of the Complaints Commissioner**

235. By virtue of the Complaints Commissioner Law (2006 Revision), the Governor may appoint a Commissioner to investigate complaints relating to the exercise of administrative functions which are deemed to be in the public interest, subject to certain exceptions which are specifically excluded from review. While the Law does not speak directly to the enforcement of rights, the Commissioner's investigative powers extend to allegations of maladministration which may include the abuse of any power or authority by "improperly discriminatory" action.

236. The powers of the Commissioner however, are limited to the making of recommendations, including a recommendation that an enactment, rule or regulation which causes or may cause injustice, be altered. There are no powers of enforcement in respect of these recommendations and where they have not been implemented within a specified or reasonable time, a special report shall be laid before the Legislative Assembly.

### **The Human Rights Committee**

237. In December 2005 a new Cayman Islands Human Rights Committee was formed as the national body responsible for the promotion and protection of fundamental human rights in the Islands. By virtue of its Terms of Reference, the Committee is empowered to enhance public

awareness of human rights; serve as the focal point for the direction of any human rights concerns; and where necessary, to make reports and submit recommendations to the government for the improved protection of human rights. The Committee also plays a pivotal role in the process of legislative reform by commenting on draft Bills to ensure that there is compliance with human rights and the Islands' international obligations.

238. The Committee accepts petitions from members of the community in respect of alleged violations of any of the human rights set out in the international conventions which have been extended to the Cayman Islands. After adjudicating upon a complaint, the Committee's findings and recommendations are published in a Final Report. These reports, though neither binding nor enforceable, are persuasive in nature and used to influence policymakers in the review and reform of existing practices, procedures and legislation insofar as they may adversely affect human rights. To date the Committee has accepted a number of petitions in respect of which some Final Reports have been published.

#### **4. Information and publicity on the ICESCR**

239. The Human Rights Committee plays an active role in the publication of information relating to the international conventions that have been extended to the Cayman Islands. This is done via its website together with all Final Reports relating to complaints adjudicated on. The website also offers guidance on how complaints may be lodged before the Committee together with the relevant contact details.

240. This, along with other information relating to human rights, is also disseminated via the Cayman Islands Government portal ([www.gov.ky](http://www.gov.ky)) which is readily available to members of the public and allows access to the websites of the Human Rights Committee and a number of other public bodies. The portal also highlights developments in the ongoing Constitutional Modernisation Review and proposed Bills for comment.

241. In order to ensure wide public dissemination, particularly to those who may not have Internet access, the Government Information Services Department is actively involved in the compilation and distribution of reports on human rights in local libraries, educational facilities and resource centres. The Department also issues press releases advising the public when and where reports will be made available.

#### **5. Legal status and implementation of the ICESCR**

242. As stated previously herein, at present the provisions of the Covenant have not been incorporated into the domestic legislation of the Cayman Islands. As such, they are not directly enforceable by the local courts. However, it is anticipated that upon completion of the Constitutional Modernisation Review, there will be a comprehensive and appropriately crafted Bill of Rights encompassing the rights set out in the European Convention on Human Rights.

## I. GENERAL INFORMATION

243. The Committee is referred to the core document (“the country profile”) in respect of the Cayman Islands which is contained in Annex IV to HRI/CORE/1/Add.62. Save as indicated in the following paragraphs of this report, the position as regards the matters covered by that core document remains substantially as described in it. The most up to date estimate of the population of the Cayman Islands (as in 2005) is 54,465, the majority of whom live in Grand Cayman. The population of the Cayman Islands comprises a multitude of nationalities from the Caribbean, Central America, the United Kingdom, the United States of America and Canada and Asia.

244. The Committee may find it helpful, as the background to some of the material set out in Part II below, to have the following information relating to the economy of the Cayman Islands in 2005, or in certain limited cases, 2006. Where such information is not available, reference will be made to the most recent data.

245. In general, the economy of the Islands has continued to be very healthy, growing by 9% in the year with inflation recorded at 7% and a consumer price index of 142. At the end of 2006, the consumer price index was 143, representing an increase of 0.7% from 2005. For the year ending 2003 the largest single source of government revenue, import duties, rose by some \$10 million over the figure for the previous year. In 2005 the gross domestic product rose by 6.5% per cent from the previous year to reach some \$1,924.5 million (at 2005 constant prices). Tourism and financial services, which have historically been the twin pillars of the economy, continued to be dominant but other sectors also performed well.

246. In the financial sector, increased regulatory supervision and enhanced professional expertise led to significant growth. The number of mutual funds rose by 18.4 per cent with registered funds increasing to 6,249. The number of fund administrators decreased from 173 to 158. Banking activity remained vigorous in spite of a decrease of 3 per cent in licensing. A total of 432 licenses were issued for the year 2005.

247. The tourism sector of the economy continued to thrive, with the number of tourist arrivals reaching 1,967 (000s). There was however a decrease in the number of air arrivals by 35.4 per cent but an increase in cruise ship arrivals by 6.2 per cent from the previous year.

248. The construction sector of the economy also recorded impressive growth. The value of planned construction (residential, hotels, government and other types) in the year was 511,247 (CI\$000's). While construction in the residential sector increased significantly by 57 per cent from the previous year, there was a slight decrease in the value of construction activities in the government sector. Similarly, in the hotel sector, there was a decrease in the value by 64 per cent.

249. The Cayman Islands Government's total revenue in 2005 was \$428.6 million while its expenditure was \$339.4 million. Its capital expenditure was \$48.5 million.

## **II. INFORMATION RELATING TO SUBSTANTIVE ARTICLES OF THE COVENANT**

### **Article 1**

250. As previously reported, by virtue of the Elections Law general elections to the Cayman Islands Legislative Assembly are required to be held at intervals of no more than four years. The most recent general elections in the Islands took place in May 2005. During these elections the question of the constitutional relationship of the Cayman Islands to the United Kingdom was not raised as an issue nor has it been raised in the Assembly. The general consensus of the population of the Cayman Islands continues to be that the Islands should retain their status as a British Overseas Territory. However, the United Kingdom Government has maintained its position that should the Islands wish to pursue full independence, it would be fully amenable to this.

### **Article 2**

251. The population of the Cayman Islands continues to consist of a multitude of nationalities and ethnicities, all of which are equally entitled to the rights contained in the Covenant. The Cayman Islands is currently in the process of drafting domestic legislation that will address racial discrimination. It is also anticipated that with the advent of the Constitutional Bill of Rights any allegation of discrimination may also be appropriately dealt with by means of constitutional redress.

252. In the field of employment, discrimination on the basis of race, colour, creed, sex, age or political beliefs continues to be prohibited by virtue of the Labour Law (2001 Revision). However, the Immigration Law (2006 Revision) (as amended) continues to distinguish between Caymanians and persons with the right to be Caymanian (who are subject to no restriction with respect to employment) and those persons who do not possess that status and may therefore only carry on gainful occupation in the Islands under the authority of a valid work permit. This distinction, though based on nationality, does not relate to race, colour or creed. All applications for work permits are considered on the basis of the character, reputation, health and qualifications of the applicant, the need of the community for the applicant's particular skills and the availability of Caymanians with comparable skills.

### **Article 3**

253. It continues to be the case that there is no distinction between men and women in relation to their enjoyment of the rights contained in the Covenant. The representation of women in various sectors of society and in positions of authority remains substantial. There are currently three women members of the Legislative Assembly, one of whom is the Speaker of the House. Of the 3,491 members of the public service in 2005 (civil servants) 1,763 were women. The average salary of female civil servants is \$36,830.30 per annum, compared with \$37,984.49 per annum for male civil servants. Although there is no legislation on equal pay, the difference between the salaries of both groups cannot be described as overwhelming.

254. The prevailing position is reinforced by legislation such as the Sex Disqualification (Removal) Law (1998 Revision). By virtue of this Law, no person shall be disqualified by sex or marriage from the exercise of any public function, from being appointed to or holding any civil or judicial office or post, or from entering or carrying on any civil profession.

### **Article 6**

255. In respect of both employment and vocational guidance and training, no distinction is made as to race, sex, colour, religion or national origin, save that Caymanians are given preference in public sector employment and non-Caymanians are subject to a work permit regime in the private sector. This scheme seeks to ensure that persons awarded work permits are drawn from a range of different nationalities.

### **International obligations**

256. The following ILO Conventions have been extended to the Cayman Islands: ILO Conventions Nos. 17, 19, 29, 50, 64, 65, 81, 85, 87, 98 and 105. At the present time, the Cayman Islands is not party to either the International Labour Organisation (ILO) Employment Policy Convention, 1964 (No.122) or the ILO Discrimination (Employment and Occupation) Convention, 1958 (No.111), both of which have been ratified by the United Kingdom. The Cayman Islands Government is, however, currently undertaking a review of its Department of Employment Relations (which falls under the purview of the Ministry of Education, Training, Employment, Youth, Sports and Culture), which will, in addition to determining the strategic direction of the provision of labour services in the Cayman Islands and organisational structure and capacity of the Department of Employment Relations, review the extent to which the employment laws in the Cayman Islands ought to reflect the CARICOM Model Labour Laws, the eight “core” ILO treaties (ILO No.29, ILO No.97, ILO No.98, ILO No.100, ILO No.105, ILO No.111, ILO No.138 and ILO No.182) and any other ILO treaties and international obligations. The tender that sought the assistance of an international expert to assist the Ministry in this task also sought advice on the establishment of a mechanism for reviewing and appraising new international treaties and their relevance to the Cayman Islands, as these arise in the future.

257. The International Convention on the Elimination of all Forms of Racial Discrimination has been extended to the Cayman Islands since 1969. The Convention on the Elimination of all Forms of Discrimination Against Women, however, is the only one of the “core” international human rights treaties that has not been extended to the Cayman Islands.

### **Labour shortages**

258. One of the principal issues surrounding access to employment in the Cayman Islands is a shortage of local labour. In particular, this can be summarised in two key challenges:

- Whilst employment rises at approximately 4% annually, the growth rate of the local population cannot keep pace with this demand for labour, notwithstanding that the local LFPR is above 90%;
- Low numbers of Caymanian graduates, post-graduates and professional qualification holders in the labour force.

259. The Ministry developed a number of initiatives in response to these challenges such as providing sufficient educational opportunities to ensure that all young Caymanians are equipped with the appropriate skills for entry into the workforce and facilitating the importation of labour in areas where the demand cannot be met locally, whilst at the same time, seeking to protect the interests of the local workforce.

260. To this end, the Ministry is actively engaged in the continued reform process initiated by the National Consensus on the Future of Education in the Cayman Islands, commencing with the implementation of a new model of governance for the compulsory education system, facilitating and supporting through financial assistance the attendance of Caymanian students at private schools that offer courses not available in the government sector, implementing a new national curriculum and working in conjunction with educators, employers and any other interested stakeholders to provide a national framework for Technical and Vocational Education and Training and populate that framework at relevant levels with courses designed to meet the needs of the local labour market.

### **Full employment and the long term unemployed**

261. Whilst the unemployment rates for women and young persons are relatively low, the general unemployment rate in 2005 was 3.5%. This, however, includes a small number of persons that have not worked for a long period of time. The Ministry has accordingly adopted the policy of increasing the ability of the long-term unemployed to access decent work. In order to achieve this goal, the Ministry has requested the creation of a new position, that is, Workforce Development Officer, which would ensure that unemployed persons, and particularly the long-term unemployed, receive a needs assessment, counselling and training.

262. The results of the 2005 Labour Force Survey revealed that the Cayman Islands has an increasingly ageing workforce. The Ministry has accordingly adopted the policy of promoting the retention and re-employment of skilled and productive mature Caymanian workers. To this end, steps have been taken to encourage employers to explore the potential of flexible work arrangements for such workers.

### **Technical and vocational education/training**

263. The Ministry has identified the enhancement of technical and vocational education and training as one of the 10 key strategies arising out of the first National Education Conference in 2005 and the National Consensus in Education that emerged from that Conference.

264. Currently, technical and vocational education and training is delivered by both public and private schools and, at the post-compulsory school-age level, it is primarily provided by the University College of the Cayman Islands. However, notwithstanding the good efforts made by individual schools or tertiary institutions, the principal problem that has been identified with the operation of technical and vocational education and training in the Cayman Islands is the lack of effective oversight at a national level. Accordingly, as part of the review of employment services presently underway, the Ministry has requested that the appointed consultant consider whether

technical and vocational education and training should remain an output of the Department of Employment Relations or whether a body, such as a National Training Agency should be established to better organise and manage vocational and technical education and training.

265. In the development of its technical and vocational education and training policy, the Ministry is actively considering the following initiatives for the improvement of the quality of training within the Islands.

- The identification of the areas of technical expertise needed for the Cayman Islands labour force in the 21<sup>st</sup> Century.
- The integration of technical education into the national curriculum.
- The design of appropriate facilities for the delivery of technical and vocational education under the national curriculum in the 21<sup>st</sup> Century.
- An audit of the current provision of technical and vocational education and training in the Cayman Islands.
- The establishment of clear routes of progression for technical and vocational education and training that start in school and progress to further education and work-related learning.
- The establishment of standards of competence, drawn up in consultation with leading figures and/or organisations in each sector.
- The design of qualifications that are compatible with the competencies agreed for each sector.
- The integration of all technical and vocational qualifications delivered nationally into a matrix of internationally recognised technical and vocational qualifications.
- The strategic use of new facilities in high schools for district outreach by the University College of the Cayman Islands.
- Identification of resource needs for infrastructure required to take forward the new technical and vocational education and training agenda.

## **Article 7**

### **International obligations**

266. The ILO Labour Inspection Convention, 1947 (No. 81) has been extended to the Cayman Islands, whilst the ILO Equal Remuneration Convention, 1951 (No. 100) has not, at the present time, been extended.

### **Fixing of wages**

267. The principal method used for fixing wages is agreement made between the employer and the employee. To date, there is no legislation providing for minimum wages in the Islands.

### **Minimum wages**

268. The Department of Employment Relations has identified two distinct problems in relation to low wages:

- Certain sectors of the workforce, such as security guards, receive wages significantly below the national average;
- Some migrant workers in certain industries are employed on a commission basis only and as a result, their income is not secure; as well as often being low.

269. The Ministry is committed to the provision of a regulatory framework in which all workers are guaranteed fair treatment, as a policy response to these problems and in conjunction with the Department of Employment Relations, has embarked on the following:

- Disseminating the findings of the 2006 Audit of Working Conditions in the Security Industry, compiled by the Department of Employment Relations and considering whether similar projects need to be undertaken in other areas;
- Considering whether a Minimum Wage Advisory Committee, as provided for in section 21 of the existing Labour Law, ought to be created so that a National Minimum Basic Wage might, in turn, be established, even if only for some sectors or occupations;
- Considering amendments to the Labour Law to ensure that no migrant workers are employed solely on a commission basis and engaging a consultant to review the legislative framework that underpins the delivery of labour services in the Cayman Islands and disseminate for public consultation and input any proposals emanating from this review.

### **Inequality in the workplace**

270. Whilst there is a perception in the labour market that discrimination based upon gender and ethnicity can lead to lower wages and hinder career progression, there is no empirical evidence to support this. However, the Ministry has nonetheless requested that the Department undertake research on employment accessibility and equality practices to determine whether this problem does indeed exist, and if so, the extent of the problem.

271. At this point in time, there is no comprehensive appraisal of jobs on the basis of the work to be performed for the purposes of ensuring equal pay for equal work. In the public sector, however, job evaluations remain the preserve of the Portfolio of the Civil Service, notwithstanding the recent devolution of many other human resources function to Ministries and

their Chief Officers. One of the reasons why this approach has been taken is precisely to ensure that there is equal pay for equal work across the Civil Service. Beyond the public service, the Department of Employment Relations has advised that there are only isolated examples of some companies undertaking job appraisals or evaluations in the private sector.

272. Therefore, the Ministry has for the time-being instructed the Department of Employment Relations to encourage best human resource management practices in the workplace, actively promoted the Investors in People scheme and depending upon whether the research noted above reveals a problem, has made a commitment to providing sufficient resources for effective workplace monitoring.

### **Comparison of public and private sector employment**

273. A comparative study of public sector (government agencies, statutory authorities, government boards and companies) and private sector incomes and benefits for a selection of jobs was carried out in 2006 by the Portfolio of the Civil Service. The results of this research have not, however, been publicly released. The Portfolio of the Civil Service was nevertheless aware of, and content with, the findings of the 2007 Review of Teachers Terms and Conditions initiated by the Ministry which revealed that any teacher employed in the public sector prior to 1999, now has a remuneration package that is 15-18% less in comparison to private sector positions that were paid at the same rate of pay in 1999. This disparity is explained by the moratorium on automatic annual increments instituted in 2001 and the omission of cost of living adjustments in some years.

### **Distinct categories of workers**

274. Certain laws impacting employment such the Immigration Law (2006 Revision) and subsequent amendments thereto and the Public Service Management Law, 2005 support the advancement of Caymanians. Where expatriate workers have the same competencies as Caymanians, then preference must be given to the Caymanian candidate when considering selection and/or promotion.

### **Occupational safety and health**

275. Occupational safety and health is dealt with in the Labour Law ((2001 Revision) and is currently enforced through the Department of Employment Relations by inspections, accident investigations, job safety analysis and the offering of training. By virtue of the Health Insurance Law (2005 Revision), all employers are required to provide health insurance for their employees.

276. It has been noted that occupational accidents, as reported to the Department of Employment Relations over the last two years, have doubled. This can, in large part, be explained by an increase in the number of accidents in the construction industry which has boomed in the aftermath of Hurricane Ivan in 2004. There is no older statistical data on occupational accidents available.

277. To address this problem, the Ministry has adopted the following policies:

- Increasing the profile of occupational safety and health issues in the jurisdiction;
- Ensuring that workplaces are properly monitored for compliance with workable occupational safety and health guidelines.

278. In pursuance of these policies, the Ministry has undertaken the following:

- Engaging the private sector for its input into a set of workable occupational safety and health guidelines. Following extensive consultation with the Cayman Contractors Association, a safety policy for the construction industry has been agreed with the intention of formally reducing it into regulations by the end of 2007;
- Providing and promoting training courses on occupational safety and health and increasing awareness through events such as a “Safety Week”.

279. Following the departmental review currently underway, steps are being taken to assess the necessary amendments to the Labour Law to improve the regulation of occupational safety and health and to determine whether the Department of Employment Relations has sufficient qualified staff to monitor compliance with occupational safety and health guidelines.

### **Working conditions**

280. Rest, leisure, working hours, periodic holidays with pay and remuneration for public holidays are all covered under the Labour Law (2001 Revision). The Law mandates a minimum of 24 consecutive hours’ rest in every seven consecutive days. For construction, manufacturing, heavy equipment operators, hospitality and gardening or landscaping, the following applies:

- Where between 3 and 5 hours are worked, a minimum of 15 minutes paid break is stipulated;
- Where more than 5 hours is worked, a minimum of two paid breaks of 15 minutes is stipulated. In addition to any paid entitlement, an unpaid meal break of 30 minutes is also provided.

281. Any employee not entitled to the breaks mentioned is still entitled to reasonable rest and meal breaks.

282. Employees are paid the basic wage on public holidays, provided the employee worked his/her scheduled work day immediately before and his scheduled work day immediately after the public holiday. A minimum of 2 weeks earned leave is permitted in respect of each twelve month period of employment for those in employment not exceeding 4 years. For those in employment for more than 4 years, but less than 10 years, the period of earned leave goes up to three weeks. For those employed for a period exceeding 10 completed years, the minimum under the law is 4 weeks.

283. It should be noted that the Labour Law does not automatically apply to employees within the public service.

### **International assistance**

284. The ILO sub-regional Caribbean Employment Forum on Decent Work Issues in 2006 provided an opportunity for the Ministry to review the range of its services and policies against a standard range of decent work issues. Many of the policies and actions identified in this section of this Report were either refined or developed as part of the process of submitting documentation to the ILO for this Employment Forum.

### **Article 8**

285. To date, there are no restrictions on the right to form and join trade unions for the promotion and protection of one's economic and social rights. By virtue of the Trade Union Law (1998 Revision) all trade unions must be registered with the Registrar of Unions. The following trade unions have been registered thus far: Worldwide Seamen's Union; the Officers' Union of International Seamen; the Union of Transport Workers; the Union of International Seamen; the International Maritime Union; the Global Seamen's Union; and the International Maritime Officers and Seamen Union.

### **Article 9**

### **Pensions**

286. The National Pensions Law (2002 Revision) requires all employers to provide or make a contribution to a pension plan for every employee in the Islands and an employer who fails to do so may be charged with an offence under the Law. Both employers and employees are required to contribute towards the pension plan. This requirement, however, does not apply to certain limited exceptions such as employees who do not possess Caymanian status or are not permanent residents and who, in either case, have been employed in the Islands for nine months or less on a continuous basis as domestic helpers. The Law also provides for the establishment of a National Pensions Board which is responsible for the administration of the Law and the improvement of pension plans throughout the Islands. The Superintendent of Pensions is the chief administrative officer of this Board.

287. The provision of pension plans for public service employees is governed by the Public Service Pensions Law (2004 Revision). Both employer and employees contribute to the pension plans, as in the private sector.

### **Department of children and family services**

288. On a wider level, the Department of Children and Family Services, formerly the Department of Social Services, offers a full range of casework services to residents through a cadre of qualified social workers located in four district offices throughout the Islands. These services include the following:

- Provision of day and residential care for indigent, elderly and disabled adults as well as indigent and disabled children. With respect to the adults, the Department “purchases” some of these services from specific non-governmental organisations;
- Adoption services;
- Foster care;
- Provision of lunch to indigent school children;
- Poor relief as defined in the Poor Persons (Relief) Law (1997 Revision) to elderly indigent and/or chronically or terminally ill persons who are deemed indigent. Temporary financial aid is also available for persons assessed to be in need and such aid may take the form of rental assistance, food vouchers, clothing or burial assistance;
- Provision of essential relief services during and in the aftermath of disasters;
- Needs assessment to determine eligibility for free medical attention;
- Provision of a range of child protection and juvenile delinquency services; and
- Mediation, conflict resolution, individual and family counselling.

289. The Department also provides a range of support systems to various other institutions such as the Health Services Authority, the Family Support Unit and schools throughout the Islands. Finally, the Department plays a significant role in the provision of parenting education in communities as well as the workplace.

### **Article 10**

290. Both the International Covenant on Civil Political Rights and the Convention on the Rights of the Child have been extended to the Cayman Islands. The Cayman Islands First Periodic Report on the Implementation of the UN Convention on the Rights of the Child for the period 1999-2006 was completed in the past year and sets out in comprehensive detail the legal and policy framework, constraints and recommendations for the implementation of the Convention in the Islands. The information stated therein also applies to this Article.

### **Maternity leave**

291. The Labour Law (2001 Revision) provides that every female employee is entitled to twelve calendar weeks’ maternity leave in any twelve month period. Where the employee has not

completed twelve months of employment with her employer, maternity leave will be calculated on a pro-rata basis. The employee may take maternity leave in whatever proportions before and after actual childbirth that she chooses except where a doctor certifies that by reason of her pregnancy, it would be deleterious to her health to work at any time during pregnancy.

292. An employee entitled to maternity leave is entitled to be paid in respect of any leave for a period not exceeding twenty working days, the basic wage that she would have received had she worked on those days. With respect to any period of entitlement to a further period of twenty days, she is entitled to payment of ½ of the amount of the basic wage that she would have received had she worked on those days.

### **Adoption leave**

293. Where a female employee adopts a child under three years of age, she is entitled to adoption leave of nine calendar weeks and payment of the basic wage that she would have received had she worked on the days of her entitlement to adoption leave for a period not exceeding fifteen working days of that entitlement.

### **Domestic violence**

294. By virtue of the Summary Jurisdiction (Domestic Violence) Law 1992, a party to a marriage or common law relationship (where both parties are living together as husband and wife) may make an to a magistrate for a domestic order where violence or a threat of violence has occurred. Such an application may be made where there has been violence against a child of the marriage including any child who has been treated by both parties as a child of the family. A domestic order will require the offending party to cease any acts of violence and may further require that party to leave the matrimonial home.

295. All cases of domestic violence are transmitted to the Family Support Unit of the Royal Cayman Islands Police. This Unit is responsible for the investigation of all reports that are received in respect of these and matters pertaining to juveniles. In cases where it has been determined that prosecution of an alleged offender is not warranted, the Unit may make recommendations for that person to undergo counselling or anger management sessions.

296. The Women's Resource Centre was established in November 1997 and its mandate is to educate the public on issues relating to women and the family. The Centre provides a number of services including breast feeding room, individual counselling and free legal advice to victims of domestic abuse and violence.

297. The Cayman Islands Crisis Centre also assists victims of domestic violence and their children. It provides safe, temporary shelter and a supportive environment for such individuals at no cost. Various in-house programs such as support groups, transitional assistance and continuing education for children housed there. In addition, the Centre offers community outreach programs to help increase awareness about domestic abuse. These programs are made available within school, churches and other institutions.

## Article 11

### Agriculture

298. The Government of the Cayman Islands continues to be active in the revitalisation of the agricultural sector and, together with local stakeholders, is developing plans for an agro-tourism project to promote Caymanian foods and cultural products in an effort to reduce the Islands' dependency on imported foods and products. The Government is also building relationships with regional organisations including the Inter-American Institute for Cooperation on Agriculture (IICA) and the Caribbean Agricultural Research and Development Institute (CARDI) to determine how the Cayman Islands can obtain the necessary technical assistance to embark on new initiatives.

299. Another key strategy to increasing markets for local agricultural production is that of strengthening the link between the agriculture and tourism sectors. Visitor arrivals to the Cayman Islands (cruise and stay over) represents a potential market approximately 40 times that of the resident population. The development of greater agri-tourism links will benefit both sectors by:

- Encouraging greater exposure of tourists to local foods, food products and the agricultural heritage of the Islands which, it is hoped, will enhance both the visitor experience and the local tourism product in the wider context;
- Providing opportunities for growth and increased revenues for local farmers as well as fostering an improved appreciation by the wider community of the economic and cultural importance of agriculture.

300. To this end the Ministry and Department of Agriculture are currently developing plans for an agri-tourism/market complex to be located at Lower Valley. The complex which will serve as a major attraction for residents and visitors alike will comprise:

- An open air market for local farm products, processed agricultural products, food, arts and crafts;
- An Agricultural Museum/Hall of Fame featuring the agricultural history and heritage of the Islands;
- Demonstration plots of locally grown crops featuring traditional and modern production techniques;
- Demonstrations of traditional agricultural industries, such as rope making, thatching, etc.;
- An agricultural processing facility for the preparation of local food products and souvenirs;
- A large multi-purpose exhibition ground for hosting national events such as the Annual Agricultural Show, art and craft exhibitions and other cultural events;

- Training and workshop facilities;
- A multi-purpose arena for equestrian and similar events.

301. The facility will also have a strong educational component providing learning opportunities for children (pre-school to post-secondary) and adults in the areas of agriculture, crafts and local culture and heritage.

302. In the past year the Department of Agriculture constructed a world class abattoir to ensure that safe and hygienic slaughter practices are followed in relation to local meats which are produced for public consumption.

303. Local farmers continue to receive support from the Department of Agriculture through technical support, pest and disease management, educational programmes and marketing. Emphasis is currently being placed on innovative technology, such as hydroponics and aquaculture with a view to enhancing existing systems and practices. At the same time, the Department of Agriculture maintains its programme of lectures and farm visits by staff to disseminate knowledge and advice on conservation methods and on food production generally.

#### **Water resources**

304. The protection of water resources and the prevention of degradation caused by over-pumping or saltwater intrusion remains a high priority, and the relevant legislation on water abstraction continues to be firmly enforced. Pipeline and truck-borne water are supplied by the Cayman Water Company and the Water Authority. In 2005 the quantity of desalinated water (in US million gallons) supplied by both companies was recorded as 1349.5 (via pipeline) and 23.1 by truck. The quantity of water made available by pipeline increased by 6.9% from the previous year while the quantity of truck-borne water delivered decreased. It is estimated that more than 95% of the population of the Islands has access to a piped water supply.

305. These entities continue taking steps to ensure a steady and reliable supply of water throughout the Islands. The Water Authority, for example, has undertaken the expansion of its piped water distribution system which includes other related infrastructure such as reservoirs, and increased its water production capacity.

#### **Construction, planning and development**

306. At present, construction in the Cayman Islands is regulated by the Development and Planning Law (2005 Revision) and the Building Code (based on North American codes), both of which impose strict building requirements on developers to offer greater protection against earthquakes and hurricanes. They also incorporate plumbing and electrical codes or policies which must be observed.

307. In early 2006 the Ministry of District Administration, Planning, Agriculture and Housing commissioned a performance audit of the Planning Department and the adequacy of its programs. The final report included 170 recommendations to revise, simplify and improve the Islands' development and permitting processes. One of the key findings was that the Development Plan and various laws and regulations are out of date and fail to take into account

the long term impacts of permitting development. The lack of adequate transportation, storm water planning and septic tank control were also identified as areas in which improvement was urgently required. The report further noted that although the Southern Standard Building Code is presently being used, it would be preferable to use International Codes instead. Finally, the lack of regulation of contractors and designers working in the Islands was highlighted.

308. As a result of these findings, an updated Development Plan Planning Statement for the Cayman Islands will be tabled in the coming year. This will set the stage for a higher standard of development, promoting a more comprehensive approach to planning and improving the quality of life for residents. Members of the community will be encouraged to participate and discuss land use, zoning and other relevant issues.

309. The Builders Law was passed into law in March 2007. It is intended to regulate the development industry and help safeguard public from exploitation, a phenomenon that increased in the aftermath of Hurricane Ivan.

310. The Government is also in the process of developing minimum property standards that would be subdivided into those for residential and non-residential properties and would include penalties for non-compliance.

### **Housing**

311. The National Housing Development Trust (NHDT) is a statutory non-profit organisation owned by the Government of the Cayman Islands with a mandate to build and sell affordable housing for low income Caymanians and their families. NHDT is currently responsible for managing 132 homes in affordable housing communities in West Bay, Eastern Avenue and Windsor Park. In addition to constructing affordable homes for purchase by qualified buyers, the NHDT will soon launch the Government Guaranteed Mortgage scheme whereby the government will guarantee up to a certain percentage of a mortgage loan for Caymanians.

312. The drafting of a Residential Tenancies Bill is presently underway and the proposed new legislation will affect a large proportion, if not all, of the population in the Cayman Islands. This includes not just tenants and landlords, but also businesses and individuals involved in property development, strata committees, real estate agencies, property management agencies and other related businesses.

313. The Cayman Islands Government encourages non-government organisations, church groups and charity organisations to operate and build and repair housing for local families.

### **International assistance**

314. The European Commission and the Cayman Islands Government are committed to programming the C-reserve aid towards the restoration of housing infrastructure following the passage of Hurricane Ivan in September 2004. This aid is intended to assist persons displaced by the hurricane and in particular will target families with small children or elderly/infirm members. The National Recovery Trust Fund will administer the funding on behalf of the Government and contract all the necessary construction work.

### **Living conditions and household budget survey**

315. A Survey of Living Conditions and Household Budget Survey commenced in January 2007. A key part of the National Assessment of Living Conditions (NALC) project, it aims to interview adult household members in relation to their housing, health, educational, employment and social issues. The questions are intended to explain why some households live below or above. The factors should enable the Government to identify and address the relevant issues that will facilitate the reduction of poverty in the Islands. It is anticipated that a total of 1900 households will be covered in by the survey.

### **Land acquisitions and compensation**

316. By virtue of the Roads Law (2005 Revision) and the Land Acquisition Law (1995 Revision), land may be compulsorily acquired for road works and/or development. Both Laws provide for the assessment and payment of compensation in respect of any taken land. All efforts are to be used to agree the quantum of compensation but where there is no success, provision is made for certain tribunals to determine the amount due to the landowner.

## **Article 12**

### **General overview**

317. The Government of the Cayman Islands has continued to pursue policies and practical measures aimed at securing the highest attainable standards of physical and mental health for the population of the Islands. The Cayman Islands National Strategic Plan for Health of 2004, in conjunction with the Government's VISION 2008 National Strategic Plan provides a broad policy framework for the continuing development of the health sector in the Cayman Islands.

### **National strategic plan for health**

318. The National Strategic Plan for Health is aimed at reducing the prevalence of behavioural health risk factors, the onset of lifestyle-related diseases such as diabetes, obesity, and hypertension, maintaining a low incidence of communicable diseases, minimising the morbidity for identified priority diseases (e.g. stroke, amputation, blindness and end stage renal failure) and providing high quality healthcare. Developments in recent years have included a major healthcare reform program by virtue of which the Ministry of Health and Human Services has focused on the development of policy and legislation while decentralising the delivery of healthcare services and undertaking the modernisation of the healthcare sector. To this end the Health Services Authority (HSA) was established in 2002 to operate all health care facilities previously run by the Government.

### **Health insurance and medical benefits**

319. The Health Insurance Law (2005 Revision) mandates employers to provide health insurance coverage for all employees and their dependants. In 2003 the Health Insurance Commission was established to monitor the performance of the health insurance industry. The elderly and those who are unable to purchase insurance are assisted by the Department of Children and Family Services in securing health insurance through CINICO.

320. Employees within the public service, as well as their spouses and dependant children, are entitled to medical, dental and optical benefits in accordance with the Public Service Management Law, 2005 and Personnel Regulations, 2006. The medical treatment covered includes free non-elective medical treatment in accordance with the health insurance coverage provided by the Cayman Islands National Insurance Company ("CINICO"), that is, the provider of health insurance to civil servants and their dependants but this coverage is not restricted by any lifetime monetary limit. CINICO was established to provide health insurance coverage for civil servants (employees and pensioners) and other residents of the Cayman Islands who historically have had difficulty in obtaining coverage through their employers or by means of private insurance. It should be noted that most medical benefits provided by the Cayman Islands Health Services Authority, the primary network provider in the Islands, are fully covered by CINICO. By virtue of the Law and Regulations, public service pensioners are entitled to these benefits upon retirement from the service.

321. The escalation in the costs of healthcare for civil servants has come about primarily as a result of a significant rise in the number of eligible beneficiaries rather than an increase in the utilization of services. Medical costs have remained stable as a result of Health Service Authorities subsidies and overseas discounts. In 2004, for example, there were 3,121 employees and 6,562 members of the public service health insurance scheme. This has increased by 12% in three years to 3,451 employees and 7,331 members in 2007. Medical claims have grown from \$6.5 million for the period 2004/05 to \$8.4 million for the period 2005/06. The average cost of providing medical benefits per civil servant is \$3,950.00 per year. This represents an increase of 25% within one year only.

322. As a result of these rising costs, the Government of the Cayman Islands is currently renewing earlier efforts to review the existing system of providing healthcare benefits to civil servants in the Islands with the objective of creating a sustainable health benefits programme.

### **Children and health services**

323. Given the importance of children within society, it has been recognised that their health needs and rights must be protected. In this respect, the Health Services (Fees) Law (2002 Revision) ensures the right of children to basic health care services that are not covered by insurance. According to this Law, fees are not payable in respect of a patient at a health care facility where that patient has not attained the upper limit of school age as defined in the Education Law (1999 Revision). In addition, fees are not payable for ante-natal services and contraceptive services including clinics, devices and drugs provided at a health care facility to a Caymanian or his spouse.

324. A comprehensive national Child Health Service programme has been implemented to ensure that all children in the Islands are able to realise their full potential - physically and psychosocially - and that their families are able to access and use the appropriate support services effectively. The Child Health programme provides a comprehensive range of services to children.

## Regulation of healthcare services

325. The regulatory system of healthcare services has been enhanced by the Health Practice Law (2002) and the establishment of a Health Practice Commission. The Commission is responsible for the inspection and certification of healthcare facilities in the Cayman Islands.

## Healthcare facilities

326. The Cayman Islands enjoys a high standard of general and specialist medical care. The Primary Health Care System is well defined in keeping with the World Health Organisation's primary health-care policy adopted in 1978. The Health Services Authority is the primary provider of health care in the Cayman Islands providing both primary and secondary care through the 101-bed (inpatient) Cayman Islands Hospital in Grand Cayman, the 18-bed Faith Hospital in Cayman Brac, four district health centres in Grand Cayman and a health centre in Little Cayman. Most of these facilities were newly built within the past ten years. Through these facilities, medical care and pharmacy services are accessible to all residents of the Islands within 15-30 minutes' travel. Ambulance services are available on all three islands and on Grand Cayman they are stationed in three strategic locations to ensure a response within 15 minutes of a call. An enhanced 9-11 system offers the quick dispatch of ambulances to any accident or emergency. Both hospitals are equipped to deal with most trauma cases. In cases where the care needed is beyond the resources available locally, arrangements are made for overseas treatment and air ambulances are available as required.

327. Cardiology services at the Cayman Islands Hospital in Grand Cayman were expanded in 2004 with the introduction of a new Cardiac Rehabilitation Programme designed to help individuals recovering from a cardiac event. A significant milestone was achieved by the Health Services in June 2004 when a team of physicians performed the first successful cardiac defibrillator implant in the Cayman Islands.

328. Health services in the Islands are affordable and accessible to all irrespective of their financial capability. In 2005 the Health Services Authority's budget was CI\$57.5 million, that is, approximately 6% of the national budget.

329. The following are the most recently available (2005) statistics for the provision of medical services in the Cayman Islands:

Expenditure(Health Services Authority)	57.5 million
Number of hospitals	3 (HSA: 2; Pvt: 1)
Number of district health centres	5 (HSA)
Number of hospital beds (inpatient)	137 (HSA: 119; Pvt: 18)
Number of hospital beds per 1,000 inhabitants	3.0
Discharges	5 396 (HSA:4642; Pvt: 754)
Physicians per 1,000 population	1.4
Nurses per 1,000 population	4.4

### Health statistics

330. The most recent (2005) health indicators are given below with the exception of the life expectancy calculated in 1996. Due to the small size of the population and geographic distribution the data is not separated as rural/urban and gender. The crude death rate (Table I) has been very low at approximately 3 per 1,000 population. This however rose to 3.7 in 2004, some deaths being attributed to cardiovascular illness during the post Hurricane Ivan period. Over the years the major cause of death remained diseases of the circulatory system (primarily heart disease) and malignant neoplasms.

331. The infant mortality rate (Table II) has also been very low (7.0 per thousand live births in 2005) with yearly fluctuations due to small population size and with deaths ranging from 1-5 per year. There were 3 male and 3 female deaths in 1996, only one male death in 2001 and 3 males and 2 females in 2005. There is therefore no great gender-based variation (Table III).

Life expectancy at birth	77.5 years (male: 75; female: 79.0)
Crude death rate	3.2 per 1,000 population
Live births	715
Still births	5
Still birth rate	7 per 1,000 births
Infant deaths	5
Infant mortality rate	7.0 per 1,000 live births
Maternal deaths (1996-2005) (One death in 10 years, occurred in 2005 prior to childbirth)	1
Average annual maternal mortality rate	16.5 per 100,000 live births
Proportion of population having access to trained personnel for the treatment of common diseases and injuries and regular supply of essential drugs within 15 minutes walk or travel	100%
Proportion on the pregnant women having access to trained personnel	100%
Proportion of pregnant women attended by trained personnel during pregnancy	98.6%
Proportion of deliveries attended by trained personnel	98.6%
Proportion of infants having access to trained personnel for care	100%

332. Immunization coverage continues to be over 80 %, although there was a decline in coverage for DTaP, Polio, and Hib in 2005 (Table IV), due to some extent to the departure of a number of children from the Islands after Hurricane Ivan in 2004. The rates of immunization coverage in 2005 are given below:

BCG	83%
Hepatitis B	79%
Polio	83%
DtaP (diphtheria/whooping cough/tetanus)	83%
Haemophilus influenza b	83%
MMR (measles/mumps/rubella)	87%
Varicella	89%

### Public health

333. The principal legislative framework for the protection of public health remains the Public Health Law (2002 Revision), which regulates matters such as water quality, nuisance abatement, offensive trades, the prevention and suppression of diseases, solid waste management and rodent control.

334. Approximately 95% of the population has access to safe piped water supplies and the remaining 5% have access to safe water supply via tanker trucks. Accordingly, 100% of the population has access to safe water. The public sewage system covers approximately 10% of the population while the remaining 90% is served by onsite wastewater treatment plants such as septic tanks, aerobic wastewater treatment plants and cesspools. As before, 100% of the population has access to adequate excreta disposal facilities.

335. The overall incidence of communicable diseases in the Islands is very low. Vector borne diseases such as dengue, yellow fever and malaria are not endemic in the Cayman Islands. Common communicable diseases prevalent in the Islands are upper respiratory tract infections, gastroenteritis and sexually transmitted infections (Table V). In this respect, the Government developed a National Flu Pandemic Contingency Plan to be prepared in the event of a potential threat. Appropriate drugs and treatment facilities are available for the management and treatment of all prevalent diseases.

336. The incidence of HIV (Table VI) and the prevalence of people living with HIV/AIDS (0.8 per 1,000 population) (PLWHA) in the Cayman Islands have been low. The Government remains committed to its policy of protecting of the human rights and dignity of PLWHA; maintaining the confidentiality of HIV testing; providing medical care to all residents who are HIV positive or suffering from AIDS; and promoting the availability of confidential counselling and other support services to PLWHA. The policy also prohibits any discriminatory action and stigmatisation of HIV infected persons in the provision of services and employment. Similarly, no child with HIV infection will be deprived of any educational opportunities.

### **Proposed legislation and reform**

337. A draft Tobacco Bill that links the Cayman Islands to the world wide efforts against the harmful use of tobacco has been made available for public consultation. The consultation period ends on May 4, 2007. The Bill emerged as a result of local initiatives, a sustained Government commitment to ensuring the health and well-being of the community and the international acceptance of the World Health Organisation's Framework Convention Alliance for Tobacco Control, the first global public health treaty.

338. In recognition The Government of the Cayman Islands is also committed to reviewing its existing health legislation with a view to bringing it into conformity with the International Health Regulations agreed in 2005 and which are deemed to apply to the Overseas Territories by virtue of the operation of Article 86 of the Regulations as amended.

### **Public awareness and education**

339. A five-year (2005-2010) Strategic Plan was developed in 2004. The Plan is aimed at educating and encouraging the community to accept responsibility for the maintenance of personal and community health, thus minimizing the risk factors for lifestyle diseases. Another recent initiative is the diabetic education programme which seeks to equip persons suffering from Diabetes Mellitus with the knowledge and skills needed to successfully manage their condition.

340. Public health education programmes continue to be disseminated via the mass media with the additional assistance of religious and voluntary organisations and businesses. A family life education curriculum is taught at all levels of the school system.

341. The Cayman Islands continues to receive support from international and regional organisations such as the Pan-American Health Organisation (PAHO), the Caribbean Epidemiology Centre (CAREC) and the Caribbean Food and Nutrition Institute (CFNI) in a number of local health related programmes.

### **Road traffic accidents**

342. Recognizing that traffic accidents are a major concern, the Cayman Islands Government has continued to pursue a policy of traffic accident prevention through measures such as the active enforcement of speed limits and legislation for the mandatory use of seat belts. There has been public education regarding the dangers of driving after consuming alcohol or using drugs and strict enforcement of the law prohibiting driving while intoxicated.

**Data tables**

**Table I**  
**Population, births and deaths (1997-2005)**

Year	Population (Mid year-'000)	Births #	Birth Rate	Deaths #	Crude Death Rate
1997	35.9	572	15.9	125	3.5
1998	38.1	545	14.3	117	3.1
1999	39.0	604	15.5	126	3.2
2000	40.2	619	15.4	137	3.4
2001	41.5	622	15.0	133	3.2
2002	42.5	583	13.7	120	2.8
2003	43.6	622	14.3	136	3.1
2004	44.2	623	14.1	163	3.7
2005	48.2	715	14.8	155	3.2

**Table II**  
**Infant mortality (1997-2005)**

Year	Female deaths	Male deaths	Total deaths	# of Live Births	Infant Mortality Rate
1997	4	3	7	572	12.2
1998	3	1	4	545	7.3
1999	0	0	0	604	0.0
2000	0	0	0	619	0.0
2001	0	1	1	622	1.6
2002	3	5	8	583	13.7
2003	0	3	3	622	4.8
2004	1	3	4	623	6.4
2005	2	3	5	715	7.0

**Table III****Infant mortality - by gender**

Years	Females			Males			Totals		
	No. of Live Births	No. of deaths	Infant Mortality Rate	No. of Live Births	No. of deaths	Infant Mortality Rate	No. of Live Births	No. of deaths	Infant Mortality Rate
1996	288	3	10.4	272	3	11	560	6	21.4
2005	360	2	5.6	353	3	8.5	713	5	14.1

**Table IV****Vaccination coverages (2001-2005)**

Vaccine	2001	2002	2003	2004	2005
BCG	93%	92%	75%	92%	83%
Hepatitis B	79%	85%	82%	77%	79%
Polio	92%	93%	92%	92%	83%
DtaP	92%	93%	92%	92%	83%
Hib	92%	93%	92%	92%	83%
MMR	87%	91%	83%	87%	87%
Varicella	39%	71%	81%	81%	89%

**Table V****Reported incidence of sexually transmitted infections 2001-2005**

Years	Population	Chlamydia		Gonorrhoea		Herpes		Syphilis		Trichomonas	
		No. of Cases	Rate	No. of Cases							
2001	41 000	171	41	103	25	7	1	112	27	44	11
2002	42 500	114	27	64	15	22	5	57	13	27	6
2003	43 600	75	17	40	9	12	3	82	19	23	5
2004	44 200	52	11	47	11	52	12	33	7	14	3
2005	48 400	33	7	50	10	15	3	55	11	13	3

NB: Rate is per 10,000 population.

**Table VI**  
**Cayman Islands**  
**AIDS data by year**  
**(As of December 31, 2006)**

Year	HIV+ves <sup>8</sup>	Cases <sup>9</sup>
1985	1	1
1986	3	1
1987	5	1
1988	1	1
1989	1	1
1990	6	2
1991	4	4
1992	3	4
1993	2	0
1994	11	4
1995	2	0
1996	4	3
1997	3	1
1998	0	2
1999	3	1
2000	5	3
2001	7	4
2002	2	0
2003	2	2
2004	1	1
2005	4	2
2006	7	2
Cumulative total	77	40

### Article 13

#### Availability of primary and secondary education

343. Both primary and secondary education is compulsory for all children of primary and secondary school age. The Education Law (1999 Revision) provides for free compulsory education for all Caymanian children of these ages in the Islands. Non-Caymanian children of primary 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 of CI\$250 at the primary school level.

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<sup>8</sup> Number of HIV Positive Clients.

<sup>9</sup> Number of cases that developed into AIDS cases from the total HIV+ves. Of the 77 HIV+ves, 26 died, 12 left the island, thus the PLWHA = 39.

Non-Caymanian children of secondary school age, who are legally resident in the Cayman Islands, are also eligible for admission to government schools but are required to pay a tuition fee of up to CI\$400 at the upper secondary level.

344. No child whose application for admission is completed and submitted within the prescribed registration period, and is deemed to be a legal resident of the Cayman Islands, is refused admission to a government school provided that there is space in the school which he qualifies for by virtue of his place of residence. Where there is an issue regarding space at his/her district school, every effort is made to accommodate the child elsewhere.

345. It should be noted that a significant portion of the primary student population attend private schools. Although not restricted to expatriate students by any means, the vast majority of expatriate students of primary school age receive their education in private schools.

### **Educational infrastructure**

346. Plans are underway for the construction of one new primary school complex in the capital George Town to replace an existing dated school in 2008. Similar, there are plans to build three new high school complexes in Grand Cayman, with one in each of the new Learning Communities to be introduced in the Islands. These state of the art facilities are currently being designed to accommodate flexible and integrated learning and will serve as the hub for learning for the surrounding community. For example, the technical and vocational facilities that are being designed should offer an opportunity for technical and vocational outreach by the University of the Cayman Islands.

347. There are five main institutions of higher education in the Cayman Islands:

- Cayman Islands Law School;
- International College of the Cayman Islands;
- St. Matthews Medical School;
- St. Matthews School of Veterinary Science;
- University College of the Cayman Islands.

### **Tertiary education**

348. Access to higher education, not just within the Cayman Islands, but to overseas institutions of higher education is also supported by the work of the Government's Education Council, which administers the award of scholarships. In addition, a number of grants and scholarships are made available by statutory boards and private sector organisations.

349. The Cayman Islands Law School was established in 1986 primarily to provide Caymanians with a local opportunity to qualify and practice in the legal profession. For the purposes of its degree programme, the Law School has an affiliation agreement with the University of Liverpool

in the United Kingdom. Whilst all teaching is delivered locally, the University of Liverpool provides an important external quality control function, which ensures that local graduates are able to penetrate the highly competitive local market for legal services.

350. The Cayman Islands Law School is a government entity but does not offer any direct scholarships. However, significantly lower fees are available for Caymanian students and it is possible to obtain financial support either through private scholarships or the Government's Education Council.

351. The International College of the Cayman Islands was founded in 1970 and operates as a non-profit, privately controlled, American-style senior college. It boasts an international student body of approximately 200 men and women each quarter and usually includes representatives from other Caribbean islands and from every continent in the world.

352. The St. Matthews Medical School is a private institution with approximately 700 students. The School offers one scholarship to a local student each year.

353. The St. Matthews School of Veterinary Science is a private institution. The School has recently introduced two scholarships that it makes available to local students.

354. Government-sponsored tertiary education in the Cayman Islands began in 1975 when the Community College was established as a part-time institution. From 1976 to 1981 three other institutions - the Trade School, the Hotel School and the Marine School - were founded. These schools were located at different sites and were supervised either by the Ministry of Education or the Ministry of Tourism and Labour.

355. Following an initiative to centralise the administration of all public post-secondary educational institutions on the islands Government of the Cayman Islands, in 1987 the Hotel Training School, the Marine & Trade Training School and the Secretarial/Business Studies Section of the Sixth Form of the Cayman Islands High School were amalgamated to form the Community College of the Cayman Islands. In 2004, by an act of the Legislative Assembly, the name of the institution was changed from the Community College of the Cayman Islands to the University College of the Cayman Islands. The College is governed by a Board of Governors and an Academic and Advisory Committee.

356. The mission of the College is to serve the educational needs of a diverse population, to give special emphasis to the preparation of individuals for work and/or further study; to combine practical fieldwork experience with classroom instruction, and to assume special responsibility for service to adults and other populations generally excluded from the mainstream of higher education.

357. Local students are able to access funding from the Government's Education Council for the purposes of attending the University College. In the last academic year, it was identified that this system inhibited applications and, following some refinements, the student population at the University College was hugely increased. In addition to the indirect funding that the University College receives through scholarships, the College also received CI\$2,236,000 from Government in the financial year 2006-7.

## **Literacy**

358. With respect to literacy in the Islands, primary school pupils receive 10 hours of formal instruction in the teaching of Language Arts. Language Arts embodies the following subjects: Reading, Phonics, Comprehension, Spelling, Handwriting, Vocabulary and Creative Writing. The teaching of Language Arts is compulsory and all schools are required to use the current Language Arts Curriculum document to develop schemes of work.

359. At the middle school level, students are taught English Language and Literature and Creative Writing. Reading is considered to be an integral aspect of all subject areas so that teachers of all content areas are required to provide support for the language requirements of their subject area. A handbook outlining this process has been developed.

360. At the High School level, students are encouraged to read from a variety of genres and each student is required to participate in a reading programme appropriate to his or her ability level. Literacy across the curriculum is also encouraged as students prepare to take final external examinations.

361. A Standardized Reading Programme was adopted in 2000 and is currently used by all schools. Students are provided with individual texts, leveled readers, additional reading books, individual workbooks and intervention programmes. To ensure that literacy standards are maintained, teachers administer ongoing assessments that constitute part of the Standardized Reading Programme. Students are given weekly tests, end of unit tests, end of book tests and end of term tests in all areas of Language Arts. Records of student achievements in literacy at primary level are maintained through the introduction of School profile booklets.

362. The Terra Nova Standardized Test is now administered to all students from years two to ten in the Cayman Islands. Students are tested in the areas of Language Arts, Reading Vocabulary and Spelling. For those students who have not achieved the required benchmark for specific grade levels, Summer School classes are held annually to provide remediation in the area of literacy. In addition, the literacy coordinators who work with teachers are responsible for working with small groups of students to provide remediation in literacy.

363. Most schools at all levels have a literacy action plan to address the literacy needs of their students. Reading-mentoring programmes have been introduced in some schools and a Literacy Unit has been established at the George Hicks Campus to address the particular literacy needs of its students.

364. Notwithstanding these initiatives and the clear commitment to literacy, the data from the test results reveals that literacy levels could be significantly improved. In the last academic year, the Ministry of Education, Training, Employment, Youth, Sports and Culture sought to address this by appointing a reading specialist to every Government school and establishing a National Literacy Taskforce.

## **Terms and conditions of employment for teachers**

365. In an effort to address one of the key action points arising from the National Education Conference in September 2005, a Task Force was established to undertake a review of compensation levels, employment terms, and conditions of educators within the Cayman Islands Government education system. The Task Force first reviewed the current state of the Cayman Islands Government remuneration practices, policies and procedures along with proposed changes. The team then conducted an examination and comparison of remuneration practices for educators in selected countries across the world. In addition, a survey was conducted of all public service educators which received an over two-thirds response rate.

366. The results of the review concluded that there is a need for a number of changes in the compensation levels and employment terms and conditions within the Cayman Islands Government education system. The examination of other international systems indicates that there is considerable variation in the approaches taken to address this issue elsewhere and highlighted the urgent need for increased communication between Government and educators in the area of benefits and entitlements. Overall, it was found locally that educators are most concerned about feeling valued, having opportunities to develop, and trusting their employer, in this case, the Cayman Islands Government. Some of the Task Force's key findings and recommendations are as follows:

- A moratorium was placed on salary increments in 2001. Educators' salaries have become non-competitive, as evidenced by difficulties with the retention of good educators and recruitment of quality educators. Automatic annual salary increments should not, however, be reintroduced. Instead all increases in salary should be linked to performance whilst ensuring they remain competitive;
- In general, the Cayman Islands Government uses a Cost of Living Adjustment ("COLA") to maintain salaries in line with inflation. COLA is a flat across the board increase, unrelated to performance. Salaries should be reviewed annually based on individual educator's appraisals and as part of the performance management system. Salary scales should also be increased annually in line with inflation;
- Educators are not sufficiently aware of their remuneration and entitlements. Pay and entitlements should therefore be clearly communicated to all educators on a regular basis with immediate introduction of an annual benefits statement;
- Educators do not strongly support a performance related remuneration system. They would however support a system that is partially based on performance;
- Comprehensive and up to date job descriptions do not exist in many cases. Some educators' roles have also not been evaluated in many years. A priority should therefore be to have job descriptions reviewed and rewritten. Following this a full job evaluation exercise should be undertaken to ensure that educators are appropriately graded for pay scale purposes;

- Educators have personal responsibilities which necessitate personal time not allowed for under the present system. A personal day policy should therefore be developed as part of educators' benefits package. Additionally, a solution should be sought whereby educators may schedule personal hours in exceptional circumstances.

367. The need for ongoing professional, a comprehensive performance management system (consisting of regular appraisals, mentoring and oversight of disciplinary matters) and the challenge of recruiting and retaining young Caymanian educators due to non-competitive salary and working conditions were all highlighted by the Task Force.

368. The Ministry is currently in the process of considering these recommendations with a view to reforming educational services in the Islands.

### **Private education**

369. As noted above, a significant portion of the student population attends private schools. These private schools are directly supported through a purchase agreement with the Private Schools Association and indirectly through the provision of various services, including those provided by the Schools' Inspectorate, which inspects private schools.

### **Funding for education**

370. In the financial year 2006-7, the total education budget amounted to CI\$60,059,000; which translates to 11.02% of the entire public sector or 15.34% of the core Government budget allocated to ministries and Departments. Some CI\$4,450,000 is specifically designated for scholarships, not only for local institutions, as noted above in the case of the University College, but also for study overseas.

## **Article 15**

### **Institutions for cultural development and advancement and available funding**

371. There are three main cultural entities that are funded by the Ministry of Education, Training, Employment, Youth, Sports and Culture, each of which is a public authority:

- The Cayman Islands National Museum;
- The Cayman National Cultural Foundation;
- The National Gallery of the Cayman Islands.

372. The Cayman Islands National Museum is charged with celebrating the unique natural and cultural heritage of the three Cayman Islands, It seeks to nurture a living connection with the Cayman Islands' past and future quality of life. It is run by a board which has autonomy to develop by-laws for the better implementation of its mandate. The Cayman National Cultural Foundation is established under the Cayman National Cultural Foundation Law, 1984 and is

charged with the development, promotion, preservation and celebration of culture and the arts. Accordingly, the Cayman National Cultural Foundation is committed to developing a deeper understanding and appreciation of the value of culture and the arts, especially in the context of the promotion of understanding, harmony and a sense of belonging and wholeness among people in the Cayman Islands.

373. The National Gallery of the Cayman Islands serves to promote and encourage the appreciation and practice of the visual arts of and in the Cayman Islands. As a quasi governmental body, the National Gallery receives some funding from government, although much is raised from private and corporate supporters. As of February 2007, 55% of the National Gallery funding is provided by the Government and 45% by the private sector.

374. In the financial year 2006-7, the Cayman Islands National Museum received CI\$900,000 in funding from the Government; the Cayman National Cultural Foundation received CI\$556,000; and the National Gallery of the Cayman Islands was provided with CI\$294,000.

375. The Cayman Islands National Museum's national collection includes over 1000 examples of traditional hand crafted items, Caymanian jewellery, paintings and apparel. The Museum has developed an inventory of over 150 terrestrial archaeological sites and 144 shipwreck sites. The first phase of the Maritime Heritage trail has also been established and phase two is to include shipwreck preserves at historic sites around the islands.

376. The Museum's programmes, all of which are intended to preserve the traditional art forms and cultural heritage of the Islands, include the following:

- The Traditional Thatch Basket program where older masters demonstrate this traditional skill to help apprentices carry on for future generations;
- The McCoy is a local competition which serves to encourage and reward emerging Caymanian artists in various media.
- The regularly scheduled "Look Ya" events in the various districts allows for individual districts to bring their own unique flavours to the public. This involves arts, crafts, music, dancing, story telling and the sale of traditional foods.

377. As far as challenges are concerned the museum building which is an artefact in itself was severely damaged with the recent passage of Hurricane Ivan. Significant work was undertaken to conserve many of the artefacts housed there and the Museum is to be restored by the end of 2007.

378. Premised on the belief that a strong culture is predicated on a strong cultural heritage and, hence, is critical to the development of a strong national identity, the Cayman National Cultural Foundation designs and implements various arts programmes to promote all forms of cultural activity, whether traditional, contemporary or futuristic. The Foundation also encourages cultural exchanges for the development and growth of the arts and culture within the Islands.

### **Professional art training**

379. At present, there is no local professional education in the arts. Students who chose to pursue an artistic discipline as a career may apply for a competitive government scholarship for training at an overseas institution. Cayman National Cultural Foundation Arts & Cultural Development Grants are, however, awarded on a competitive basis to non-profit groups and organisations that provide non-commercial arts and cultural programmes in the Cayman Islands.

380. The National Gallery holds 5-6 exhibitions each year which are free to the public and to which schools are encouraged to attend. It provides a wide variety of public educational programmes including the “outreach” programmes, which are focused on specific members of the community such as those in prison.

381. The National Gallery offers continuing support for artists in the form of the “Artist Away” programme, along with an annual internship to a young Caymanian interested in a career in the art world. The National Gallery also offers a wide variety of volunteer opportunities for interested persons.

382. The National Children’s Festival of the Arts which is administered by the Education Department provides a vehicle through which the creative talents of all government and private school age children in the Islands is developed and displayed. In 2006, over 4000 children participated in vocal music, instrumental music, speech, drama, dance, creative writing, and art & craft.

383. The Ministry of Education, Training, Employment, Youth, Sports and Culture is desirous of implementing a more comprehensive cultural policy which will prioritise and reward ventures similar to the National Gallery’s Art Outreach and firmly establish culture as a vehicle for social rejuvenation and the celebration of diversity.

### **Artistic freedom**

384. Although the Cayman Islands National Museum, the Cayman National Cultural Foundation and the National Gallery of the Cayman Islands all receive funding from the Ministry of Education, Training, Employment, Youth, Sports and Culture, this does not impinge upon the artistic freedom of these entities. The parent legislation for the Cayman National Cultural Foundation, in particular, is structured so as to preserve its independence from the politics of government.

385. No measures have been taken to prevent the use of scientific and technical progress for purposes which are contrary to the enjoyment of all human rights, including the rights to life, health, personal freedom, privacy and the like.

## CHAPTER 4. REPORT FROM THE FALKLAND ISLANDS

### I. STATISTICS

Population	2,955 (Falkland Islands - in 2006)
Number of men per 100 women	113 Falkland Islands - in 2006)
Percentage of population under 15	16% (Falkland Islands - 2006)
Percentage of population over 65	9% (Falkland Islands - 2006)
Percentage of population in urban areas	72% (Falkland Islands - 2006)
Religion	Christian churches (Falkland Islands)
GDP <sup>10</sup>	£75 million (Falkland Islands - in 2004)
GDP per head <sup>11</sup>	£25,381 (Falkland Islands - in 2004)
Inflation	3% (Falkland Islands - in 2006)
Government Deficit/Surplus <sup>12</sup>	£2.7 million surplus (Falkland Islands - in 2005/06)
Government Debt <sup>13</sup>	£520,000 (Falkland Islands - 2006)
Employment rate	77% <sup>14</sup> (Falkland Islands - 2006)
Languages	English (Falkland Islands)
Infant Mortality - number of deaths of children aged under 1 year per 1,000 live births	0 (Falkland Islands - in 2006)

### II. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

386. The Committee is referred to the core document (“the country profile”) in respect of the Falkland Islands contained in annex V to HRI/CORE/1/Add.62. Save as is indicated below and in the following paragraphs of this report, the position as regards the matters covered by that core document remains substantially as described in it. The most up-to-date estimate of the population of the Falkland Islands (as established by the 2006 census) is 2,955. The per capita income in the year 2003/04 was estimated to be £31,000 and the gross domestic product in the same year was estimated to be £75 million.

387. The Committee’s attention is drawn especially to those parts of the core document which describe the democratic institutions of government in the Falkland Islands (Part II, section A), the legal system (Part II, section B), and the general legal framework within which human rights

<sup>10</sup> Expressed in GBP £.

<sup>11</sup> Expressed in GBP £.

<sup>12</sup> Expressed in GBP £.

<sup>13</sup> Expressed in GBP £.

<sup>14</sup> Population aged 15 or over and employed full time.

are protected (Part III). In particular, the Committee is referred to paragraphs 43-46 which give an account of the contents and operation of chapter I of the Constitution of the Falkland Islands (entitled "Protection of Fundamental Rights and Freedoms of the Individual"). As is explained in those paragraphs, the provisions of chapter I guarantee and protect, in justiciable form, the principal substantive rights set out in the International Covenant on Civil and Political Rights and also many of the rights set out in the International Covenant on Economic, Social and Cultural Rights and enable the courts of the Falkland Islands to grant and enforce effective remedies for any contravention or threatened contravention of the rights so guaranteed.

### **III. INFORMATION AND PUBLICITY CONCERNING THE COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND THE REPORTS TO THE COMMITTEE**

388. The texts of United Nations human rights instruments to which the UK is a party in respect of the Falkland Islands are available in the Islands and persons who request copies can obtain them through either Government House (the Governor's Office) or the Attorney General's Chambers. Consideration is being given to the preparation and publication of a public information paper to raise public awareness of human rights instruments applicable to the Islands.

### **IV. LEGAL STATUS AND SPECIFIC IMPLEMENTATION OF THE COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

389. The Covenant is not directly applied as law within the territory. The Falkland Islands gives effect to the various articles of the Covenant by specific laws, policies and practices of the appropriate authorities. The rights under the Covenant are not directly applicable/enforceable by the courts unless they have been given effect by those specific laws.

### **V. RESPONSE TO THE CONCLUDING OBSERVATIONS**

**390. Paragraph 40 of the concluding observations. In the context of HIV/AIDS, the Committee urges the State Party to ensure the availability of, and equal access to, anti-retroviral medication for all individuals in Overseas Dependent Territories.**

391. The Falkland Islands Government has not taken steps to secure anti-retroviral medication for all individuals as fortunately there isn't any current need. The hospital does have a small stock primarily for post exposure prophylaxis if someone has a needle stick injury. If a particular patient required anti-retrovirals then they would be ordered for that patient, thus ensuring the availability of, and equal access to, anti-retroviral medication.

### **VI. PROGRESS SINCE THE FOURTH REPORT ON EACH OF THE ARTICLES IN PARTS I, II AND III OF THE COVENANT**

#### **Article 1 - Self-determination**

392. There are no developments to report under this Article. These fundamental rights and freedoms are guaranteed and thoroughly protected.

## **Article 2 - Realisation of the rights contained in the Covenant**

393. The Race Relations Ordinance 1994 adopts the provisions of the Race Relations Act 1976 of the UK so as to make them part of the law of the Falkland Islands, but does so with the necessary adaptations and modification and with certain exceptions, mostly of a technical nature. Its effect, therefore, is to prohibit in the Falkland Islands, as in the UK, acts or practices of racial discrimination if these occur in any of in various specified spheres, such as employment, education and the provision of goods, facilities, services and premises. The prohibition applies whether the person committing the racially discriminatory act, or engaging in the racially discriminatory practice, is a private person or organization or is a public authority or is the Government itself. The Ordinance of course supplements, and in no way derogates from, the provisions of section 12 of the Constitution of the Falklands Islands which prohibits (and thereby renders invalid) any provision of law that is discriminatory either of itself or in its effect and which also prohibits any discriminatory conduct by any person acting by virtue of any law or in the performance of the functions of any public office or public authority. For the purposes of section 12, the expression “discriminatory” covers not only racial discrimination but also discrimination by reference to place of origin, political opinions or affiliations, colour, creed or gender.

## **Article 3 - Gender equality**

394. As has been made clear in previous reports, men and women in the Falkland Islands enjoy full equality in respect of the rights set forth in the Covenant. Section 12 of the Constitution, which prohibits discriminatory laws and discriminatory executive acts, applies to discrimination on grounds of gender as well as on other grounds.

395. Women in the Falkland Islands are in fact active in the exercise of their rights in all spheres. In conformity with section 12 of the Constitution, the laws which prescribe the qualifications for voting and for candidature for elected office in the Falkland Islands make no distinction between men and women. At the latest general election to the Legislative Council, which took place in November 2005, two of the eight members elected were women and one of these was subsequently chosen by all the elected members to be one of the elected members of the Executive Council.

396. As regards the employment of women in the public service, the following statistics have been presented by the Human Resources Department of the Falkland Islands Government and are correct as at 30 April 2007: 624 officers employed by the Falkland Islands Government, of whom 311 were women. Of 32 persons employed in higher grade posts (Grade A and above), 13 are women. The number of women appointed at Grades D to A and above (the Senior Grades in the Public Service) is 84.

397. Women also play an active and significant role in commerce in the Falkland Islands. For example, a number of fishing companies (which play an important part in the economy of the territory) have women among their directors; one of the two travel agencies operating in Stanley is owned and operated by a woman; and there are a number of retail stores and accommodation houses or hotels in which women have a controlling interest and/or which are managed by women. Of the 314 people recorded as self employed by the 2006 Census, 133 are women.

398. The Convention on the Elimination of All Forms of Discrimination Against Women was extended to the Falkland Islands in 1986. A report has recently been drafted and submitted to the UK in preparation for the 6th periodic report in respect of the Falkland Islands under that Convention.

### **Article 6 - Right to work**

399. As detailed in previous reports, there is essentially full employment in the Falkland Islands. The 2006 Census recorded 2484 people over the age of 15 (people of working age). The figures show that the working population of the Islands has increased since 2001, with 15% more people working full time (was 2025 now 2334). Among those of working age (and not already retired), the employment rate in full time employment is 91% (men) and 77.4% (women). 92 people were recorded by the census as unemployed. As a percentage of the Falkland Islands population of working age, less than 1% (24) are registered as unemployed and actively engaged in the Government sponsored special employment programme.

400. This level of employment, coupled with the prohibition of forced labour which is contained in section 4 of the Constitution, ensures that there is no impediment to the enjoyment by everyone (in accordance with paragraph 1 of article 6 of the Covenant) of the right to the opportunity to gain his living by work which he freely chooses or accepts.

401. It should be mentioned, however, that the Immigration Ordinance 1999 does differentiate, in relation to employment, between persons with “Falkland Islands status” (who are subject to no restriction on their right to work) and persons who do not have that status (who, in general, may not carry on any gainful occupation in the Falkland Islands except under the authority of a work permit). Applications for work permits are considered with reference to such factors as the character, reputation, health and qualifications of applicants, the need of the community for the skills which a particular applicant can provide and the availability of Falkland Islands status holders with comparable skills. Unless otherwise directed by the Governor, the Immigration Ordinance 1999 states that the Principal Immigration Officer may require that:

402. Any employment vacancy to be advertised in the Falkland Islands before considering any application for a work permit enabling a person who has not a right of residence in the Falkland Islands to be engaged to fill that vacancy;

403. The proposed employer to satisfy the Principal Immigration Officer that it is necessary to engage such a person rather than engage any person having a right of residence in the Falkland Islands who has applied as a result of that advertisement or otherwise to be engaged to fill that vacancy.

404. The Falkland Islands Government draft Management Code says the following about the “preferred candidate” situation:

*“The Government will appoint a person with sufficient qualifications and experience to fulfil the requirements of the person specification of a job. In the event that there is more than one suitable applicant for any job, the preferred order for selection of the successful candidate, unless the Governor otherwise directs in any particular case, will be:*

- (i) A Falkland Islander, that is to say a person who has Falkland Islands status within the meaning of Section 17(5) of the Constitution, then
- (ii) A person who is ordinarily resident in the Falkland Islands, i.e. a person who is resident and who holds a Permanent Residence Permit or is the spouse of such a person and is resident in the Falkland Islands.”

405. The remoteness of the territory and the small size of its population mean that, while there is some provision of out-of-hours adult education, the territory can offer only limited local facilities for the direct provision of technical and vocational guidance and training programmes (there are no local universities, institutes of technology or vocational colleges). However, to meet the need in this area and in accordance with paragraph 2 of article 6 of the Covenant, the Falkland Islands Government funds a number of projects which enable Falkland Islanders to receive suitable further education and training either locally or overseas. As well as funding the further secondary education, in boarding schools in the UK, of children who have achieved sufficient passes at a sufficient level in GSCE examinations undertaken in the Falkland Islands, the Falkland Islands Government also provides funding for students who have finished their secondary education and wish to pursue tertiary studies in the UK. The Falkland Islands Government regularly sends its own officers for training overseas at public expense. In addition, it actively encourages public officers to undertake distance learning courses (again at public expense) and it engages consultants to visit the Falkland Islands to provide training on the spot. The current practice is that all public officers are required to undertake Performance Management Programmes which are designed to enhance their ability to perform the duties of their employment and also to provide information that may indicate suitable further vocational training for them.

#### **Article 7 - Right to fair conditions of employment**

406. The Employment Protection Ordinance 1989 contains a number of provisions aimed at securing the enjoyment of just and favourable conditions of work. Employers are required to furnish to each employee, within 13 weeks from the beginning of his employment, a statement in writing identifying the parties and specifying the date when the employment began, the scale of remuneration, how this is to be paid, the terms relating to hours and conditions of work, the terms relating to holidays, sickness and pension schemes, the length of notice for the termination of the contract, and a job description and title. The statement must also give details of any disciplinary rules and of persons who may be contacted if problems arise.

407. The Ordinance ensures that employees receive prescribed minimum payments in circumstances where they are not provided with work as a result of a contraction of their employers' business and it also guarantees remuneration for up to 26 weeks if they are unable to work on medical grounds.

408. A woman employee has the right to a maximum of 29 weeks maternity leave, during which time her right to return to her job is preserved, and, if she is absent from work wholly or partly because of pregnancy or confinement, is entitled to maternity pay for a period of six weeks at 90 per cent of her wages. The Employment Protection Ordinance 1989 was amended in 2005 so as to extend its provisions to persons employed by the Crown. Crown servants had previously been excluded from the protections provided under that Ordinance. The amendment means that

women employed in the Falkland Islands in the civil service are now entitled by law, in the same manner as any other women employee, to receive maternity pay and to return to work following pregnancy and giving birth. In practice, however, most women Crown servants already received more generous maternity benefits than those provided by law. Maternity benefits for Falkland Islands Government employees are provided for in the Falkland Islands Government's Management Code. For example, under the Management Code, a woman Crown servant can expect to be permitted to claim maternity benefits after one year's continuous employment but, because maternity protection provisions in the Employment Protection Ordinance remain unchanged since its introduction in 1989, a woman in the private sector relying on the protection of the Ordinance is only entitled to the maternity benefits under the Ordinance after two years' continuous employment. In fact a failure to keep pace with developments in employment protection in English law means that women in the Falkland Islands remain significantly disadvantaged in this area.

409. Employees are given the right to spend reasonable amounts of time away from their employment to carry out trade union activities or public duties, to attend court and to seek medical or dental treatment. Employees who are dismissed because of redundancy are entitled to compensation calculated by reference to the length of their employment and their age. An employee who claims to have been unfairly dismissed has the right to apply to the Magistrates Court which, if satisfied that that is the case, may order either reinstatement or compensation. The latter will consist of a basic award (calculated as for redundancy payments), together such compensatory award (up to a maximum of £10,000) as the Court considers just and equitable and also a special award (up to a maximum of £25,000) if the employee has been dismissed because of his trade union activities or if he has been wrongly dismissed on grounds of redundancy. The Ordinance also contains provisions protecting the rights of employees of insolvent employers.

410. The right of workers in the Falkland Islands to enjoy safe and healthy working conditions continues to be assured by the operation of the common law, supplemented in some respects by statute. All employees in the Falkland Islands owe to their employers a common law duty of care, which may in some circumstances be reinforced by a statutory duty to the same effect. The failure of an employer to provide safe and healthy working conditions will, if it causes the injury or death of an employee, usually constitute a breach of this duty ("negligence") for which the employee (or his family if he has died) is entitled to recover compensation from the employer by means of an action in the courts. Even in circumstances where such negligence by the employer cannot be established, an employee whose earnings are below a statutory limit may claim compensation from his employer under the Workmen Compensation Ordinance 1960 for injury (or his family may claim compensation for his death) arising out of or in the course of his employment. This compensation is recoverable on a "no fault" basis and is payable either in the form of regular periodic payments or as a lump sum. Employers are required by law to maintain insurance to cover both their liability for negligence and their "no fault" liability under the 1960 Ordinance.

411. The Falkland Islands Government has on a number of occasions considered whether there should be a minimum wage, but is not convinced of the benefit in a very full employment economy. As a statutory "fall-back" to ensure remuneration which provides a decent living, the Falkland Islands has long-standing legislation (the Labour Minimum Wages Ordinance 1942) which empowers the Governor in Council, by order, to fix a minimum wage for any occupation. However, in the prevailing conditions and in the absence of any complaint in this respect by or

on behalf of employees, the Falkland Islands Government has seen no need to make such an order, though it would of course consider doing so if employment circumstances were to change. The Government continues to keep the issue under review.

412. The Equal Employment Ordinance 1998 and the Sex Discrimination Ordinance 1998 are intended to ensure that women are treated on equal terms with men in the field of employment and, in particular, that all are entitled to equal pay for equal work or work of equal value. More generally as regards the right of workers to enjoy remuneration which provides a decent living, the state of full employment which obtains in the Falkland Islands, coupled with the low rates of taxation on incomes, ensures that this right is largely secured for all workers.

413. The Falkland Islands Government Management Code recognises that, “all eligible people must have equality of opportunity for employment and advancement on the basis of their suitability for the work. The Government will not tolerate unfair or unlawful discrimination on the basis of race, colour, nationality, ethnic or national origins, political opinions or affiliations, disability, sex, marriage, sexual orientation, age, religion, or on the grounds that a person works part-time or on a fixed term contract. However, the Government recognises its responsibility to residents with Falkland Islands Status, who, therefore, shall be ‘Preferred’ Candidates for appointment”.

414. With regard to jobs within the Falkland Islands Government, in order to achieve an objective appraisal of jobs on the basis of the work to be performed, the salary or pay band appropriate to a post is determined after appropriate evaluation under the Falkland Islands Government job evaluation scheme. The job evaluation scheme is analytical and serves to support good practice in relation to equal pay; rewarding equally work of equal value to the Government.

415. The right of workers in the Falkland Islands to enjoy safe and healthy working conditions continues to be assured by the operation of the common law, supplemented in some respects by statute. All employees in the Falkland Islands owe to their employers a common law duty of care, which may in some circumstances be reinforced by a statutory duty to the same effect. The failure of an employer to provide safe and healthy working conditions will, if it causes the injury or death of an employee, usually constitute a breach of this duty (“negligence”) for which the employee (or his family if he has died) is entitled to recover compensation from the employer by means of an action in the courts. Even in circumstances where such negligence by the employer cannot be established, an employee whose earnings are below a statutory limit may claim compensation from his employer under the Workmen Compensation Ordinance 1960 for injury (or his family may claim compensation for his death) arising out of or in the course of his employment. This compensation is recoverable on a “no fault” basis and is payable either in the form of regular periodic payments or as a lump sum. Employers are required by law to maintain insurance to cover both their liability for negligence and their “no fault” liability under the 1960 Ordinance.

#### **Article 8 - Right to form and join trade unions**

416. The right of every person to form or belong to trade unions is expressly guaranteed by section 11 of the Falkland Islands Constitution and there are no restrictions on the right of individuals or trade unions to organise or take part in strikes. The Employment Protection

Ordinance expressly protects employees against any action taken against them for the purpose of preventing them from joining a trade union or from taking part in union activities or for the purpose of compelling them to be members of a particular union, and it requires the employer of any trade union official or member to permit him to take reasonable time off work to attend to union duties or activities.

417. Because of the small population of the Falkland Islands, there have traditionally been only two active trade unions: the General Employees Union, which claimed to represent both public sector and private sector employees; and the Civil Service Association, which claimed to represent public sector employees only. The former regularly negotiated working conditions on behalf of farm employees with the Sheep Farmers Association and occasionally also on behalf of employees of the Falkland Islands Government. The latter provided assistance to public service employees in a range of matters. These two trade unions recently merged into a single union (the Government Service Employees Union) which now claims to represent all public and private sector employees.

418. ILO Convention No. 87 (Freedom of Association) extends to the Falkland Islands and the requisite reports have been submitted to the relevant supervisory body.

#### **Article 9 - Right to social security**

419. It remains the case that there is no comprehensive social security system in operation in the Falkland Islands, but, as described below, provision is made in a number of ways, in some respects by statute and in others by administrative means, to satisfy the requirements of article 9 of the Covenant.

420. Because of the state of full employment which has existed for many years and which ensures that any able-bodied person who wishes to find employment can do so, Falkland Islands law does not provide for unemployment benefit as such. However, employees who are unable to work because of injury or illness generally have a statutory right to continue to receive remuneration from their employers. In the rare cases where this right does not cover the situation, the Social Welfare Department of the Falkland Islands Government has the power to make a cash grant (according to the claimant's personal circumstances) and/or to provide a rent rebate (if the claimant lives in government housing). Rent rebates are available from the Falkland Islands Government for persons living in Government housing but assistance with the payment of rent is not available for persons living in private accommodation. Those living in private accommodation may, however, apply for a service charge rebate. The service charge covers refuse collection and the provision of water. Those who have been unemployed and actively seeking work for a period of six weeks, and with income from all sources (including pensions and payments for volunteer/reserve services) of less than £39.80 per week are eligible to join the Government's Special Employment Programme. The provisions regulating the entitlement of employed women to maternity benefit are described above; and mothers may be provided by the Social Welfare Department with support in kind or with small cash payments and, if they live in government housing, may also be given a rent rebate.

421. All resident families in the Falkland Islands are entitled to a monthly payment of £53.50 for each child: this benefit is not means-tested and the payment is tax-free. There is also a statutory pensions scheme, under the Retirement Pensions Ordinance 1996, for the payment of

Old Age benefits. In general, this is a contributory scheme under which all employed persons between the ages of 17 and 64 years who earn more than a prescribed sum each year (£8,316 in 2006) must make a weekly contribution to the scheme. Under the Retirement Pensions Ordinance 1996, there is provision for the Falkland Islands Government to pay the statutory weekly retirement pensions contribution on behalf of any resident whose total income is too low for that person to be able to afford to pay the contribution themselves. Employers are also required to make a weekly contribution. Employed persons are entitled, on reaching the age of 64 years, to a pension based on the number of contributions that they have made, but the Pensions Board may also make payments to a person without sufficient means even if he retires without having made the prescribed minimum contributions.

422. The Welfare Benefits Group is currently investigating reforms to the current social welfare payments system. While the existing ad hoc system traditionally may have been appropriate and expedient in the Falkland Islands because of the few cases requiring assistance and the close knit and supportive social structure that existed, a review was considered necessary as a response to the growth in population and the increasing complexity of the circumstances of individuals and families as social structures evolve. The aim of the review is to create a more publicised, accessible, transparent and equitable system through the payment of a living allowance.

#### **Article 10 - Right to protection of the family**

423. The legislative and other arrangements in force in the Falkland Islands for the implementation of article 10 of the Covenant remain substantially as previously reported. The Falkland Islands have now produced an action plan on how to improve compliance with the UN Convention on the Rights of the Child. An inclusive steering group has been established, tasked with implementing action. The aim is to ensure that all children and young people in the Falkland Islands are safe, healthy and confident and have the opportunity, through education and recreation, to develop and make a positive contribution to the community. A 6<sup>th</sup> periodic report in respect of the Convention against the Elimination of Discrimination of All Forms against Women in respect of the Falkland Islands has recently been submitted.

#### **Article 11 - Right to an adequate standard of living**

424. The relatively high standard of living which is enjoyed by the population of the Falkland Islands has been described in detail in previous reports and there have been no significant changes to draw to the Committee's attention. The generally satisfactory position previously reported as regards the enjoyment of the right to adequate food, clothing and housing has also continued without significant change.

425. In the 2006 census, of 1582 dwellings recorded, 832 of these were detached houses and 142 semi-detached, 89 were flats and 50 were mobile homes. 457 households were housed in communal accommodation (YMCA and worker's accommodation at the military base). 382 dwellings were owned outright, 301 owned with a mortgage, 312 rented, and 584 rent-free. 829 respondents rated their standard of accommodation as good, 250 as good, and only 27 as not good (total 1107 - dwellings listed as communal were not listed in this question). There is no homelessness. Only 19 dwellings in the Islands have no central heating. All 1582 dwellings have electricity and access to potable water.

426. Housing construction has continued at an average of 22 dwellings per year over the last 5 years. The East Stanley development has now been completed and the Falkland Islands Government has approved a comprehensive housing strategy following public consultation and, arising from this, has announced a review of the Stanley Plan. The strategy aims to provide the climate in which a wider range of house types will be provided and to generate more activity in the private sector by promoting the release of private sector owned land for housing development. A new mortgage scheme has been developed with Standard Chartered Bank and a shared equity mortgage scheme is being developed to provide access to home ownership to people for whom the purchase of a home may currently be little more than a dream.

### **Article 12 - Right to health**

427. Health care in the Falkland Islands is provided by the Falkland Islands Government and is available regardless of age, gender or nationality. All medical services are based at the King Edward VII Memorial Hospital in Stanley which provides a full range of primary care services to the civilian population, military personnel stationed in Stanley and the foreign fishing fleets around the Islands. Although the provision of satisfactory health services is more difficult in areas remote from Stanley, medical practitioners make regular visits to all settlements in the Camp (countryside) and there is a radio clinic for Camp run from the King Edward VII Memorial Hospital. It is impracticable to provide in the Falkland Islands, because of the size of its population, all the kinds of medical treatment which may be required. The hospital has facilities to deal with acute medical and surgical conditions. Cases requiring specialist attention are first stabilised and then evacuated to the UK or Chile, or in emergencies to Montevideo, Uruguay. The estimated expenditure for health and social services in 2005/06 was £6 million. No charge is currently made to resident “consumers” of medical services for medical treatment or for the provision of drugs and medicines. Visitors from overseas (except persons resident in the UK) are, in general, required to pay for such services, drugs and medicines.

428. Cardiovascular disease and various forms of cancer remain major causes of death in the Falkland Islands. While broadly speaking the population of the Falkland Islands share the same health problems as the UK, particular areas of concern are heart disease and cancer, dental health (teeth decay), and obesity. Tooth decay is far worse than in the UK. The Falkland Islands Government is making a concentrated effort to deal with this problem, particularly as regards to children. It has identified the causes of the problem as sugary drinks and failure to brush teeth. The Government is doing everything it can to address such causes and to educate parents. Dental treatment is provided free of charge in the Falkland Islands. Obesity is being addressed by the medical practitioners in the Falkland Islands. There has been publicity via the radio station and weekly newspaper of the health problems that follow obesity and advice as to possible action that can be taken. The practice nurse is available for regular support, the Government funds free use of all facilities at the Sports Centre to patients referred by medical practitioners, and a weekly diet club has free use of Government facilities. Mental health services in the Islands are currently offered by visiting psychiatrists supported by the Community Psychiatric Nurse and the Social Work Department. Steps have been taken to recruit a second Mental Health Worker and Mental Health legislation in the Falkland Islands is under review.

429. In the 2006 Health Survey 76% of people regarded their health as good or very good. Less than 5% of adults who were kept from doing usual activities for more than 5 days per month, because of a physical or mental health problem.

430. The whole population has access to safe water and adequate excreta disposal facilities.

431. There is a high standard of maternal care offered in the Falkland Islands. There are 3 midwives who conduct periodic examinations, as well as antenatal classes. The medical practitioners offer ultrasound screening and access to other testing. If a problem is detected with the pregnancy or thought likely in relation to the birth, either the woman is sent to the UK or a specialist is flown to the Falkland Islands. This is the situation that occurs with elective caesarean sections that are medically required. Emergency caesarean sections are performed in the Falkland Islands by the resident surgeon. Post-natal care and support is offered by the midwives and the Health Visitor in conjunction with the general practitioner (and resident surgeon in the case of caesarean births).

432. All infants have access to trained personnel for care. A baby and child clinic operated by the Health Visitor is held weekly at the Hospital, and the Health Visitor also attends playgroup sessions regularly. The Health Visitor also makes regular visits to children at outlying farm settlements. Child health is generally excellent. Immunisation rates are virtually 100%. The neonatal and childhood death rates, which are often considered to be the best indicators of quality of healthcare, are as good as the best in the world. However the birth rate is so small that 1 neonatal death in a year will adversely affect the statistics out of all proportion to reality.

#### **Articles 13 and 14 - Right to education**

433. The position in relation to article 13 of the Covenant remains substantially as previously reported.

434. Education in the Falkland Islands is free and compulsory for all children between the ages of 5 and 16. The Government provides staff, equipment and supplies for education, has a primary and secondary school in Stanley and operates two settlement schools. In the rural areas, younger children either attend the settlement schools or are visited by one of six travelling teachers for two weeks out of every six. There are also telephone lessons available. In 2005/06 there were 380 schoolchildren being educated in the Falkland Islands. The Falkland Islands have no institutions of further or higher education (i.e. catering for pupils above the age of 16 years) of their own. Students complete their General Certificate of Secondary Education (year 11) in the Falkland Islands. Government funding is then available for all students to complete their "A" levels (Advanced levels in years 12 and 13) in the UK. Many successful "A" level students progress to universities and similar institutions in the UK and elsewhere for tertiary education. This is also Government funded. Those less academically gifted or inclined are encouraged to undertake Government funded vocational training either in the Falkland Islands or overseas to meet measured vocational standards and qualifications. In 2005/06 55 Further and Higher Education pupils were being educated overseas.

435. The census report of 2001 indicated 344 persons having tertiary qualifications defined as a degree, advanced degree or professional qualification. A further 454 had vocational training. The 2006 census indicates that 337 persons have tertiary qualifications and 417 vocational training.

436. This however, might be somewhat misleading as the figure might not take account of those who have and continue to study overseas. From Education Department records since 2001 sixty six young people between the ages of 16 - 19 have participated in tertiary education abroad. Of that number sixty two have successfully gained certificate diplomas or degrees.

437. Between April 2001 and October 2006 198 people gained one or more tertiary qualifications either directly through the Falkland Islands Government Training Unit or with funding provided from the training budget. The actual number of qualifications gained was 235, which are broken down as follows:

- CMI Management Certificates Level 3: 35;
- CMI Management Certificates Level 4: 10;
- CMI Management Diplomas Level 5: 11;
- NVQ/IVQ Level 1: 7;
- NVQ level 2: 79;
- NVQ Level 3: 43;
- NVQ Level 4: 6;
- IT Qualifications (RSA Levels 1, 2 and 3, ECDL): 26;
- Various Certificates/Diplomas: 15;
- Degrees/Professional qualifications: 3.

438. Over the last twelve months the Falkland Islands Government has provided training in the Islands in 81% of the areas identified in the 2005 Training Needs Analysis. These include the following: Practical Skills (e.g. basic Mechanics, Plumbing, Carpentry, Concreting, Welding etc), Management courses, First Aid for Baby Sitters, Customer Service, Catering (Food Handling and Hygiene) Basic Accounting and Money Management, Starting a Business, Health and Safety and Risk Assessment, Time Management, dealing with Conflict, Report Writing, Coaching & Mentoring for Health Service staff and Electrical Appliances.

#### **Article 15 - Right to culture**

439. The position as regards the enjoyment in the Falkland Islands of the rights set out in article 15 of the Covenant remains substantially as previously reported.

## **CHAPTER 5. REPORT FROM GIBRALTAR**

### **1. Statistics (includes the sections “land and people” and “economic, social and cultural characteristics”**

- Population - 28,875 in 2006.
- Number of men per 100 women - 100 in 2006.
- Ethnic groups - descendants from British, Irish, Maltese, Genoese, Jews and Spaniards.
- Percentage of population under 15 - not available.
- Percentage of population over 65 - not available.
- Percentage population in urban areas - 100%.
- Religion - Catholic, Protestant, Islamic, Hindu, Judaic.
- GDP - £560 million in 2003-2004.
- GDP per head - £19,552 in 2003-2004.
- Inflation - 2.6%.
- Government Deficit/Surplus - £17 million in 2007.
- Government Debt - £ 93 million in 2007.
- Employment Rate - 3% approximately.
- Languages - English.
- Life expectancy - 78.5 male, 83.3 female.
- Infant Mortality - 0.92 average for 1998-2006.
- Fertility Rate (per woman) - 2.19.

### **2. General political structure**

440. Gibraltar is a democratic state with a legislature (the Gibraltar Parliament), Executive and Judiciary. The Governor whose powers are set out in sections 19 to 23 of the Gibraltar Constitution 2006 represents Her Majesty Queen Elizabeth II as the Head of State for Gibraltar.

441. The Gibraltar Parliament consists of a Speaker and 17 Elected Members of Parliament elected in such a manner and in such number as may be prescribed by any law which may prescribe a number in excess of seventeen Members if such increase or reduction has been approved by a motion supported by a two-third majority of the Members of the Parliament.

442. The executive authority of Gibraltar vests in Her Majesty The Queen, however, the Gibraltar Constitution provides for a Council of Ministers, which consists of a Chief Minister and no less than four other Ministers.

443. Gibraltar's judiciary consists of the Magistrates Court, Supreme Court and Court of Appeal. Appeals from the Court of Appeal are to the Privy Council.

### **3. General legal framework within which human rights are protected**

444. Chapter I of the Gibraltar Constitution 2006 sets out fundamental rights and freedoms including:

Right to life;

Right to personal liberty;

Protection from slavery and forced or compulsory labour;

Protection from inhuman treatment;

Protection from deprivation of property;

Protection for privacy of home and other property;

Provisions to secure protection of law;

Freedom of conscience;

Freedom of expression;

Freedom of assembly and association;

Freedom to establish schools;

Freedom of movement;

Protection from discrimination;

Right to marry and found a family.

445. By virtue of section 16 of the Constitution any person may apply to the Supreme Court if he considers that the provisions of the said Chapter I have been, is being, or is likely to be contravened in relation to him.

### **4. Information and publicity concerning the ICESCR and reports to the Committee**

446. Individuals who make specific requests for copies can obtain them from NO 6 Convent Place.

## **5. Legal status and specific implementation of the ICESCR**

447. Gibraltar has a dualist legal system. Rights in international treaties thus are not directly enforceable before the domestic courts unless they have been incorporated into domestic law. The ICESCR has not been specifically incorporated into Gibraltar law.

## **6. Information relating to substantive Articles of the Covenant**

448. In respect of those points of the Covenant that are not specifically mentioned, it is to be taken that there are no such developments to report.

### **Article 1 - Self determination**

449. The preamble to the Gibraltar Constitution 2006 states as follows:

*“Whereas Gibraltar is part of Her Majesty’s dominions and Her Majesty’s Government have given assurances to the people of Gibraltar that Gibraltar will remain part of Her Majesty’s dominions unless and until an Act of Parliament otherwise provides, and furthermore that Her Majesty’s Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes;*

*And whereas the people of Gibraltar have in a referendum held on 30th November 2006 freely approved and accepted the Constitution annexed to this Order which gives the people of Gibraltar that degree of self-government which is compatible with British sovereignty of Gibraltar and with the fact that the United Kingdom remains fully responsible for Gibraltar’s external relations.”*

### **Article 2 - Realization of the rights contained in the Covenant**

450. Article 6 - the right to work, vocational guidance, etc. refers.

451. Gibraltar is part of the European Union, therefore European Union citizens and their family members are entitled to take employment and enter into self-employment in Gibraltar as required by European law. Other non-Gibraltarians will only be entitled to work in Gibraltar if they obtain a work permit in accordance with the Employment Act.

### **Article 3 - Gender equality**

452. Discrimination on the grounds of gender is prohibited in Gibraltar both by the Constitution and the Equal Opportunities Act, 2006.

453. The Constitution of Gibraltar (Gibraltar Constitution 2006) prohibits discrimination on the grounds of gender by virtue of section 14. In particular the provision forbids the making of discriminatory laws.

454. The Equal Opportunities Act 2006 prohibits discrimination on the ground of gender in employment (including both access to employment and conditions of employment), membership of trade unions and professional organisations and in relation to vocational training and guidance. It also prohibits discrimination against women who are or have been pregnant. As such the Act deals with the rights contained in the following articles of the ICESCR - Article 6 (right to work), Article 7 (right to just and favourable conditions of work), Article 8 (right to join a trade union etc), Article 10(2) (special protection to mothers) and Article 13(2)(b) (right to secondary education).

455. By virtue of the Equal Opportunities Act 2006 public authorities in Gibraltar have a statutory duty, in carrying out their functions, to have due regard to the need to eliminate unlawful discrimination and harassment on the grounds of gender, and to promote equality of opportunity between men and women.

456. Women in employment in Gibraltar have a right to maternity leave. The right is set out in the Employment (Maternity and Paternal Leave, and Health and Safety) Regulations 1996.

### **Article 6 - Right to work**

457. ILO Conventions Nos. 122 of 1964, on Employment Policy, and 111 of 1958, on Discrimination (Employment and Occupation), have both been extended to Gibraltar, as has also the International Convention on the Elimination of All Forms of Racial Discrimination. The requisite reports under these instruments have been submitted to the relevant supervisory committees.

458. Consistently with their policy of creating opportunities for all persons to seek and obtain employment in fair competition with others (and in particular without discrimination on grounds of gender, race, religion, age and disability), the Gibraltar Government, through its relevant agencies, offers vocational guidance and training, job placements and ongoing counselling services to all workers. These and other functions in the employment field are shared between the Department of Education and Training and the Employment Service, which now comes under the Ministry for Trade, Industry, Employment and Communications.

459. In addition to carrying out such tasks as compiling relevant statistics and advising the Gibraltar Government on conditions of employment, including minimum wage levels, the Employment Service also operates as a mandatory labour exchange (Job Centre), and all vacancies and job offers and all contracts of employment and variations in the contractual terms of employees must be registered with it. The Employment Service also offers a programme of wage subsidy schemes operated in partnership with local employers to assist the longer term unemployed and other disadvantaged groups. Wage subsidy schemes are part funded by the European Social Fund.

460. The Vocational Training Scheme is a work-based scheme open to young people aged between 16 and 25. Trainees undergo a 12-month work placement with an employer. This enables them to gain hands-on experience and training in real job situations. A training allowance commensurate with age is paid to them on a monthly basis. This Scheme is part funded by the European Social Fund.

461. In addition to this, trainees can opt to pursue studies towards BTEC, NVQ, OCR, Edexcel and EMTA recognized qualifications.

462. The vocational guidance provided through the Education and Training Department at present takes the form of free training up to the level of National Vocational Qualification (NVQ level 3) in construction and also in engineering trades, e.g. electrical and mechanical, welding and fabrication and construction trades, such as joinery, carpentry, plumbing and bricklaying. The Gibraltar Government has a vocational training establishment for those wishing to enter the tourism sector of the economy and the courses offered include travel and tourism. Currently, vocational courses are being provided to over 150 registered unemployed persons. The vocational guidance and counselling services provided through the Education and Training Department are available to all who seek them and specialist counselling services are provided for those with family responsibilities, such as single parents and others with young children who are seeking to enter the employment market.

463. Further to the Job Centre services offered through the Employment Service to all registered unemployed persons, there is further employment assistance provision through a Job Club that aims to assist the longer term unemployed; that is, individuals who have remained out of work in excess of six months. The Job Club also assists other disadvantaged groups such as ex-offenders, recovering addicts and single parents who could be experiencing particular difficulty in returning to the labour market. Under the guidance of two employment counsellors, the Job Club offers practical job-seeking skills (e.g. going for interview, preparing CV's, completing application forms, contacting employers) and workshop based initial training in various general job related skills (e.g. customer care, computer literacy, job fundamentals).

464. As at 31 December 2006, there were 490 registered unemployed persons in Gibraltar. Of these unemployed persons, 300 were men and 190 were women. Given Gibraltar's location as a frontier city, there is a constant flow of jobseekers from the neighbouring area of southern Spain. Both Spanish and other European nationals resident or wishing to take up residence in this area create further cross-border competition for jobs. The Employment Service employs Labour Inspectors, who are responsible for the enforcement of statutory provisions contained in the Employment Act and subsidiary or related legislation. Under the Employment Regulation (Offences) Act, Labour Inspectors are empowered to issue fixed penalty notices to employers who fail to comply with particular registration requirements in respect of their employees (e.g. contractual terms, notice of termination, work permit applications). They are also empowered to enter premises, to request the production of records, to question persons and generally to do anything necessary for the detection of breaches of the Act. As regards other causes of unemployment, it is to be particularly noted that Gibraltar's economy has had to undergo a very substantial diversification programme following the rundown of the Ministry of Defence services over the recent past. This has translated into a reduction of jobs in the Public Sector, which has been compensated by a corresponding rise in employment in the Private Sector. Most of this new employment has been the result of Gibraltar's economic diversification, generating new and growing opportunities in such key sectors as Financial Services, Tourism, Port related activities and the resulting General Services economy.

### **Article 7 - Right to a fair condition of employment**

465. ILO Conventions Nos. 131, 100, 14, 106, 132, 81, 129 and 155 have all been extended to Gibraltar and the requisite reports have been submitted to the relevant supervisory committee.

466. Gibraltar continues to operate an effective system for the regulation of minimum wages. These are fixed, on an annual basis and under the authority of the Employment Act, by Orders made by the Minister on the recommendation of the Conditions of Employment Board. This Board is itself established under the Act and consists of equal numbers of representatives of employers and the trade unions and an independent member. The minimum wage Orders that are currently in force are the Conditions of Employment (Retail Distributive Trade) Order 1981, the Conditions of Employment (Licensed Non-Residential Establishments) Order 1986, the Conditions of Employment (Transport Contract Undertakings) Order 1990, the Conditions of Employment (Wholesale Trade) Order 1989, the Conditions of Employment (Printing Industry) Order 1992, Conditions of Employment (Standard Minimum Wage) Order 2001 which applies to employees, other than those on a monthly salary or an incremental scale, in all fields of economic activity other than those covered by the specific Orders just mentioned. The Employment Service supervises the application of these Orders.

467. The remit of the Conditions of Employment Board is not confined to minimum wages. Under the Employment Act it also has the responsibility of making recommendations to the Gibraltar Government which it does, on other conditions of employment such as entitlement to annual and sick leave, maternity leave, redundancy pay, etc. These recommendations are submitted to the Minister of Employment and if accepted, are then brought into force by instruments published in the Government Gazette. In making its recommendations, the Board of course has regard to the relevant ILO Conventions that have been extended to Gibraltar. In the discharge of its functions, the Conditions of Employment Board is empowered to summon witnesses and to require the production of documents and the Employment Service employs Labour Inspectors with wide powers to secure the observance of the Employment Act.

468. Furthermore, a Labour Advisory Board has been set up to promote a better climate for industrial relations and to perform an advisory role in seeking broad consensus in employment policies, by a process of consultation between the Government, employers and employees representatives. The Board meets periodically every two months.

469. The provisions for the application and enforcement of the principles of equal treatment and equal pay for equal work or work of equal value, as between men and women, are contained in the Equal Opportunities Act that came into effect on 1 March 2007.

470. Building on existing provisions in the Equal Opportunities Act 2004 and Employment Act, the Act goes further by prohibiting discrimination on the grounds of disability, age and pregnancy as well as on the existing grounds of race, gender, sexual orientation and religion.

471. Under the Act men and women are entitled to equal pay and occupational pensions. This applies not only where they are doing same jobs, but also where they are doing different jobs which are of equal value - for example in terms of level of skills, responsibility and the qualifications required to do the job.

472. Health & Safety Officers are appointed under the Factories Act. In being responsible for the enforcement of the provision of the Factories Act and subsidiary legislation, the Health and Safety Inspectorate is tasked with several key functions.

473. Health & Safety at the workplace continues to be regulated by the Factories Act and its subsidiary legislation. Under this legislation, which conforms with relevant European Union directives, provision is made for a very wide range of health and safety matters as relating to the work place, encompassing the general management of health and safety at work and the policing and enforcement of pertinent legislation. Instances of non-compliance can result in the imposition of an "Improvement Notice" or even a "Prohibition Notice" that will in effect bring work operations to a standstill until such time as the Health and Safety Inspectorate is satisfied that required safety standards have been duly complied with. Non-compliance can eventually lead to prosecutions. The Health and Safety Inspectorate is further empowered to investigate accidents occurring at a place of work. Such investigations can also lead to prosecutions. In 2006 there were a total of 4 prosecutions for companies in breach of the Factories Act.

474. The Gibraltar Government has also established a Health & Safety Advisory Council. The purpose and role of the Council is to serve as a monitoring and advisory body on matters of health and safety at work and make recommendations to the Minister of Employment. The Council meets every three months and as additionally may be required for specific matters that may arise.

#### **Article 8 - Right to form and join trade unions**

475. The following reports have been submitted previously, and are relied upon in answer to the questions now asked:

(a) Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) - Report for the period ended 30 June 1998;

(b) Right to organise and Collective Bargaining Convention 1949 (No. 98) - Report for the period ended 30 June 1999;

(c) Labour Relations (Public Service) Convention 1978 (No. 151) - Report for the period ended 30 June 1999.

476. Since the submission of the above reports Gibraltar has, by virtue of the Gibraltar Constitution 2006, a new constitution that came into operation on 2 January 2007. The fundamental rights and freedoms that were contained in the former Constitution have been preserved.

477. With respect to formal conditions to form trade union etc., please refer to Part II of the report on Convention No. 87 referred to above.

478. There are no special legal provisions regarding the establishment of trade unions by certain categories of workers.

479. There are no restrictions placed upon the exercise of the right to join and form trade unions by workers. The exception to this is in relation to the Royal Gibraltar Police, where the position is as set out in Part II of the report on Convention No. 87 referred to above.

480. The salient provisions in the Constitution safeguarding the freedoms of conscience, expression and assembly, in conjunction with sections 16 to 23 of the Trade Unions and Trades Disputes Act allow the union to act freely. The aforementioned sections of the Act provide unions with certain immunities from criminal and civil sanction when undertaking their business. Please refer to the answers provided in the report on Convention No. 98 referred to above.

481. There are no constitutional or other legal prohibitions on the rights of workers to strike. Gibraltar does not have its own armed forces. Members of the police are not allowed to organise themselves into a trade union. There is however a Police Association which takes care of the general welfare of the members of the force.

### **Article 9 - Right to social security**

482. There are three contributory Social Insurance schemes:

(a) The Employment Injuries Insurance Scheme, which applies to employed persons, provides cash benefits for those who, because of an accident at work or certain industrial diseases are unable to work or are disabled, and for widows and widowers and certain other dependants of industrial casualties;

(b) The Social Security Short-Term Benefits Scheme, which provides in return for regular weekly contributions, maternity grants, maternity allowance, death grants, and unemployment benefit. Self-employed persons are not eligible to maternity allowance or unemployment benefit;

(c) The Social Security Open Long-Term Benefits Scheme, which provides in return for regular weekly contributions, cash benefits on widowhood or on reaching pensionable age. There are also benefits for guardians or orphans. A married man's contributions also provides not only for his personal benefits but also for certain benefits for his wife and family.

483. The Gibraltar social security scheme is not supplemented by any informal (private) arrangement and all contributors enjoy the same rights. The money to pay for benefits comes from the contributions of insured persons, employers and from interest on the investments of the Insurance Funds.

484. The percentage of the GNP spent on social security is 6%, the same as 10 years ago. However, the percentage of the Government Recurrent Expenditure spent on social security benefits is 15.3% as compared to 26.9% ten years ago. The change is mainly due to increases in other areas of expenditure of the Gibraltar Government, for example on health services.

### **Maternity benefits**

485. A Maternity Grant of up to £400 is payable to women who qualify either through their own or their husband's insurance, for every child born to them. A Maternity Allowance of £75.60 per week is payable to women, who qualify through their own insurance, if they are pregnant or have just had a baby. This weekly allowance is payable for a maximum period of 18 weeks while the person is absent from work on maternity leave.

### **Old age pension**

486. Old Age Pensions are payable to men over 65 years of age and women over 60 years of age who have paid not less than 156 contributions and have a yearly average of at least 50 contributions. The standard rate of pension is £78.97 per week with increases of £11.40 per week for each child and £39.48 per week for a dependant wife. Old Age Pensions are payable at a reduced rate if the yearly average of contributions paid or credited is more than 13 but less than 50.

### **Guardian's allowance**

487. Guardian's Allowance is a payment of £20.15 per week to the person who takes into his family an orphan child both of whose parents are deceased. Special rules apply to the children of divorced parents, adopted children, illegitimate children and children whose parents cannot be traced.

### **Widow's benefit**

488. Widow's Benefit is payable to the widow of a deceased insured person who has satisfied the necessary contribution conditions. There are three kinds of widow's benefit, only one of which is payable at any one time, as follows:

(a) Widow's Allowance, which is payable for the first 13 weeks of widowhood at the standard rate of £93.67 per week with increases of £11.40 per week for each child up to a maximum of four children;

(b) Widowed Mother's Allowance, which is payable to a widow left with a dependant child when she finishes drawing her widow's allowance. The standard rate is £78.97 per week with increases of £11.40 per week for each dependant child;

(c) Widow's Pension which, subject to certain qualifying conditions, is payable on termination of widow's allowance or widowed mother's allowance. The standard rate is £78.97 per week;

(d) Widower's Pension is payable to a widower who is and has been permanently incapable of self-support for not less than ten years and has been wholly or mainly maintained by his wife during that period. This pension is awarded if his wife's contribution conditions are satisfied. The standard rate is £78.97 per week.

### **Employment injury insurance scheme**

489. The Employment Injuries Insurance Scheme provides insurance against being unable to work, or being disabled or losing life because of an accident at work or certain industrial diseases. Self-employed persons are not insurable under this scheme. There are no contribution conditions.

### **Injury benefit**

490. Injury benefit is paid for a maximum period of 182 days from the date of the accident or development of an occupational disease. The standard rate of injury benefit is £75.60 a week with lower rates for persons who are under 18 years of age.

491. Additional weekly allowances are payable for an adult dependant and two dependant children as follows:

- Adult dependant      £16.10
- First child              £ 8.75
- Second child           £ 5.60

### **Disablement benefit**

492. Disablement Benefit is a regular weekly payment or lump sum for any disablement, which remains, when injury benefit ends. The amount of benefit depends on the extent of the disablement as assessed by a Medical Board. If the degree of disablement is between 1% and 34% the award is by way of a gratuity varying between £440 and £7,380. If the disablement is 35% or more the award is either a gratuity varying between £7660 for 35% to £21,350 for 100% or a weekly disablement pension. The weekly rate of disablement pension is £75.60 but can also be increased for certain dependants. The dependants allowances payable are at the same rates as for injury benefit.

### **Industrial death benefit**

493. Industrial Death Benefit is payable to the widow or widower or wholly dependent parent of an insured person whose death results from an industrial accident or a prescribed occupational disease. The award can be either a pension at the rate of £46.40 a week, which may be increased by dependant's allowance, or a lump sum of £21,350. Where there is no widow or widower, children or parent, there is provision for certain other dependants to claim, in which case the benefit is by way of a gratuity of £2,390.

### **Unemployment benefit**

494. Unemployment benefit is paid to persons previously in employment. Employers and contributors finance payment of such benefit from the weekly contributions to the Social Insurance (Short-Term Benefit) Fund.

495. Unemployment benefit is payable for a maximum period of 78 days (Sundays excluded) to any person under pensionable age who is unemployed, capable of work and available to take work if offered. The standard weekly rate is £51.75 with an increase of £25.45 a week for any one dependant adult and £10.05 a week for each dependant child. Lower weekly rates are payable to claimants who are under the age of 18 and do not have any dependants.

496. The following allowances are not supported by specific legislation but operate under administrative arrangements.

### **Social assistance**

497. Social Assistance is an allowance designed to provide financial assistance on a basis of need. Awards are discretionary on the basis of a case-by-case consideration of individual need. The basic weekly rates are as follows:

	<u>Under 60</u>	<u>Over 60</u>
Single person	£40.50	£53.20
Married couple	£69.80	£78.30

### **Elderly person's minimum income guarantee**

498. Elderly Persons Minimum Income Guarantee is designed to guarantee persons aged 60 and over, who live in Gibraltar and do not work (except in community schemes), a weekly income as follows:

Single person	£103.00
Married couple	£137.50

499. All income or potential income from all sources is taken into account when calculating eligibility to this allowance.

### **Disability allowance**

500. Disability Allowance is a discretionary allowance awarded to persons who are severely disabled by physical or mental disability from birth. The Director of Social Security may, in his discretion, approve payment of this allowance in exceptional circumstances. The weekly rate is £43.00 (18 years and over) and £31.00 (under 18 years).

### **Child welfare grant**

501. Child Welfare Grant provides a monthly allowance to any child (excluding the elder or eldest) who is lawfully present with his family in Gibraltar. The monthly rates are as follows:

1. Where the joint income does not exceed £35,000 but is in excess of £17,500 per annum.	£30 per child excluding the elder or eldest.
2. Where the joint income is less than £17,500 per annum.	£40 per child excluding the elder or eldest.

502. The total amount of any monthly allowance that would be payable at the rate shown above, is reduced by £1 for every £50 of joint income above £35,000.

### **Article 10 - Right to protection of the family**

503. In this society the term “family” is taken to mean the unit comprising parents and children.

504. Children are deemed to attain the age of majority on their 18th birthday for most purposes. An exception to this is in relation to marriage. A person under the age of 16 is considered a minor under the Marriage Act.

505. Free consent to marriage is a pre-requisite. Where such consent is not freely given the marriage may be declared void ab initio by the courts. The right to marry and establish a family is enshrined in section 15 of the Constitution.

506. Families that are in need of assistance for the care and education of dependants may find assistance in the following:

- Financial assistance from the government through the social security system (further details are set out in the answers provided in respect of Article 9);
- Non-financial assistance through the Social Services Agency in respect of dependants who have other requirements relating to care and protection issues;
- Free education for all dependants.

507. The extended family is not taken into account for the purposes of access to government benefits. However the test applied is: who has legal or actual responsibility for the care and welfare of a minor? A present no shortcomings have become apparent.

508. There are no groups who do not enjoy maternity protection and further details on this issue have been provided under Article 9.

509. Children of compulsory schooling age are not allowed to have full-time employment. Compulsory schooling ends when a minor attains 15 years of age.

510. Orphans and abandoned children are cared for through government funded care homes.

511. Gibraltar has not had, and does not require any international assistance in the realisation of the rights enshrined in Article 10.

### **Article 11 - Right to an adequate standard of living**

512. Information on the current standard of living in respect of both the aggregated and different socio-economic, cultural and other groups is provided under Article 9.

513. There is no poverty line but statistics show that in 1994/1995 the GDP per capita was £11,623 whilst in 2004/2005 it was £20,831, which is an increase of 79%. Also average earnings of all employees jobs in October 1995 was £13,302.94 whilst in October 2005 it had increased by 46% to £19,383.80.

514. The entire population has access to adequate food and water and further details on these issues together with statistics for longevity are provided under Article 12.

515. During this reporting period (2000- to date) there have not been any changes in national policies, laws or practices negatively affecting the access to adequate food and water. Measures taken to promote good health are detailed in the responses under Article 12.

### **The right to adequate housing**

516. The total numbers of units of the Government Rental Stock as at April 2007 are:

Number of units rented - 4769.

Number of units out of rent - 151.

517. The total number of applicants for public housing classified under the different categories as at March 2007 are:

Main Waiting List:

Classification of Unit (RKB - number of rooms, kitchen and bathroom)	Number of applicants
1RKB	277
2RKB	46
3RKB	169
4RKB	99
5RKB	10
6RKB	2
<b>Total</b>	<b>603</b>

\* Pre-waiting List

1RKB	229
2RKB	13
3RKB	60
4RKB	31
5RKB	3
6RKB	0
<b>Total</b>	<b>336</b>

\* Applicants have to qualify for a period of two years before becoming eligible to be allocated housing. These are the applicants that appear on the Pre-waiting list.

518. Number of allocations of apartments in the years 2004, 2005 and 2006 shown under different categories.

Categories:

Year	Waiting list	Medical	Social	Decanting	Pensioner & other exchange	Total
2004	43	25	30	9	8	115
2005	28	17	18	18	15	96
2006	50	16	23	12	20	121

\* The allocations shown under the different categories in which the allocations have been approved.

519. The average length of waiting time for obtaining accommodation for persons on the waiting list is as follows:

- 1RKB - 6½ years
- 2RKB - 5½ years
- 3RKB - 5 years
- 4RKB - 4½ years
- 5RKB - 4½ years.

520. The demand on the stock of Government flats emanate from a number of sources. A number of areas should be highlighted such as separations, drug related problems and homelessness.

521. The Ministry for Housing is witnessing a change in the way that couples are settling the matter of responsibilities for their children. As a result, there are more cases of care and control of the children being granted jointly which in effect creates an increased demand from both parents to have adequate accommodation for their families. The rise in number of separations also means, at the very least, that many more displaced people are making demands on Government for housing.

522. Another plight is the problem of drug abuse, which causes families to break up, and homelessness ensues. The Ministry for Housing has no statutory duty to provide accommodation to persons who are homeless or likely to become homeless. However, every effort is made to assist where possible but the degree of assistance given will depend entirely upon availability, housing priorities and the circumstances of the people involved. In dealing with such applications, the Ministry places the onus of proof of need of housing on the individual. Applications can include underage persons who find themselves homeless as well as those in need of sheltered accommodation.

523. Other demands for housing come from changing practices as we move with the times. For example, children that are taken in care now live in small family units. Social Services currently hold a number of flats for this purpose.

524. The table below illustrates the number of persons who have been categorised as requiring urgent accommodation on social grounds. The figures also include those persons who are considered to be homeless. In the majority of the homeless cases, the persons are residing with relatives or friends who have offered them accommodation to alleviate their plight until an offer of a flat is made.

Priority	Number of cases		
	Homeless	Other reasons	Total
High	20	50	70
Low	0	29	29

525. The average length of waiting time for those persons on the high priority list is as follows:

- 1RKB - 2½ years
- 2RKB - 1½ years
- 3RKB - 2 years
- 4RKB - \*
- 5RKB - \*
- 6RKB - \*

\* It is not possible to establish an average given the small number of allocations under this category of flat.

526. There are no persons living in Government rented accommodation without ready access to basic amenities such as water, waste disposal, sanitation facilities, electricity, etc.

527. There have been a total of 25 evictions through the Courts within the last five years for illegally occupying Government properties. Of the 25 evictions, 15 have been 'squatters'. The remaining 10 have been persons who have been illegally occupying Government properties and have not handed them back to the Ministry, notwithstanding instructions issued accordingly.

528. The Government has a Rent Relief scheme for those tenants with low household incomes. As at the 3<sup>rd</sup> April 2007 a total of 626 tenants (includes 486 pensioners and 65 single parents) were on full or partial rent relief. Their accommodation represents 14.10% of the total housing stock.

529. The table below illustrates the number of applicants in the public housing list who are living in situations of overcrowding or in damp conditions.

Situation	Number of applicants	% of applicants in list
Dampness	652	69.43
Overcrowding	259	27.58

530. The Public Housing Scheme provides for the decanting of tenants to alternative suitable accommodation where there is proof of severe dampness or other similar situations. In extreme circumstances when as a result of a survey carried out by a Building Surveyor, it has been established that a flat is structurally unsafe, the occupiers are decanted to another flat as a matter of urgency. In some cases when a suitable flat is unavailable, the Ministry has to recourse to

private rented accommodation as an interim measure until a flat becomes available. At present there are 47 Government tenants waiting to be decanted. This figure includes 23 tenants who reside in areas, which have been earmarked for further development and are therefore waiting to be moved to other suitable accommodation.

531. The table shows the number of persons in different types of housing tenure as compiled in the last Census undertaken in the year 2001.

Tenure						
No. of persons	Government rented	Private rented	Owner occupier	Co-ownership	Other	Total
1	953	471	394	190	5	2 013
2	1 350	406	597	405	10	2 768
3	796	179	444	364	15	1 798
4	680	177	640	517	21	2 035
5	326	73	212	133	9	753
6	121	24	53	34	3	235
7	26	5	15	11	2	59
8 & over	24	3	11	1	-	39
Total	4 276	1 338	2 366	1 655	65	9 700

532. The legislation on Housing is titled The Housing (Special Powers) Act 1984 and was introduced to further the proper and effective use of accommodation allocated by the Government.

533. A Housing Allocation Committee (HAC) established under the Housing (Special Powers) Act 1984, is empowered to administer any scheme on the allocation of Government housing and when so required makes such recommendations on the most suitable and effective use of Government housing as it thinks appropriate.

534. The main committee has two subsidiary committees namely the Housing Advisory Committee (SAC) and Medical Advisory Committee (MAC).

535. The terms of reference for the SAC are to examine social reports prepared by the Department of Social Services and to recommend and advise the HAC on the allocation or pre war accommodation on social grounds.

536. Similarly, the terms of reference for the MAC are to examine medical evidence presented by applicants and to advise the HAC on the allocation of flats to urgent cases under the medical category priorities or to recommend on other special matters referred to it by the Housing Allocation Committee.

537. The Government has recently published a draft comprehensive Housing Bill. This Bill deals with all aspects of Housing, both public and private, including:

- Government housing, and reform of the housing allocation system;
- The reformed residential dwelling provisions of the Landlord & Tenant Act;

- Housing anti-social behaviour provisions;
- Provisions relating to Housing Associations and Private Estate Management companies.

538. The new Housing legislation will rescue our older private properties and bring them into use to satisfy demand for housing while fully protecting existing tenants. It will also provide that all proceeds of sale of Government residential properties must be reinvested in housing.

539. The anti-social behaviour legislation will be widely welcomed in both Government and private estates alike.

540. The Town Planning (Environmental Impact Assessment) Regulations 2000, requires such assessments to be made whenever the Planning Authority deems it appropriate.

541. The Public Health Act provides powers for the Government to deal with disrepair in privately owned housing. It also deals with the abatement of nuisance in premises.

542. Matters related to town planning, land use and distribution and other related subjects are governed by the Town Planning Act of 1999. The Public Health Act administers the building codes, standards and the provision of infrastructure.

543. There is no legislation on the following matters:

- The prohibition of any form of eviction;
- Repeal or reform of existing laws, which detracts from the fulfilment of the right to housing;
- Restricting speculation on housing or property particularly when such speculation has a negative impact on the fulfilment of housing rights for all sectors of society;
- Measures conferring legal title to those living in the “illegal sector”.

544. Recently Government is itself financing a home ownership low cost housing project. The Government encourages locally based companies to undertake building projects for small premiums for the land or on occasions for none at all. These projects are undertaken and if required, Government retains a share of ownership with respect to the flat of the prospective purchaser.

545. Government has completed the allocation of four new co-ownership scheme projects. A total of 718 flats have now been allocated to purchasers, 226 of these on a 100% ownership basis and the balance of 492 have been on co-ownership terms where the government retains ownership of a percentage of the flat. A small number of flats still remain unallocated.

546. The allocation of flats in Government co-ownership scheme projects and the construction of senior citizen's flats for rental will release approximately 200 existing Government flats for re-allocation to people on the public waiting list. The home ownership allocations will also remove approximately 384 and 124 persons from the public housing waiting and pre lists respectively.

547. The funds acquired by the Government in these co-ownership and affordable projects are reinvested in new co-ownership developments and in the construction of rental stock for the less privileged persons who are unable to purchase their own properties. The Government has recently announced the construction of more Government financed public housing for rental purposes. This project is specifically aimed at addressing the right to adequate housing for the most vulnerable in our society with difficulty in stepping into home ownership at the extreme lower end of the market.

548. This project will be commencing soon and entails the construction of a new 700 flat Government housing estate for its government rental housing stock. This will be Gibraltar's second biggest Government housing estate and will be built on a prime waterfront site on land reclaimed from the sea.

549. This new rental estate will be financed partly from the proceeds of sale of Government properties. The Government has granted tenants the right to buy their homes at affordable prices. The proceeds of these sales will be invested in providing many hundreds of new homes to add to its rental housing stock. In this respect, Government will soon be introducing new Housing legislation, which will provide that all proceeds of sale of Government residential properties must be reinvested in housing.

550. The Government has prepared a new Development Plan, which shall within the next few months be presented for public consultation. The plan sets a list of updated policies to ensure sustainable development with a socio-economic agenda. Some of these policies are highlighted below and focus on the provision of suitable residential accommodation:

- Collection of data to predict future demands for housing;
- Identification of sites suitable for home ownership and encouragement of home ownership schemes;
- The provision of a range of housing types and sizes suitable for elderly and disabled;
- As part of the plan the Government has identified areas for housing developments for various users across different social strata;
- Within the context of the Historic City Centre, an Urban Renewal Programme has been developed and is being launched in the summer of 2007. This is a multimillion-pound programme and aims at redeveloping run down inner city areas;

- The programme focuses on the reuse of under-utilised land and property, the creation of open spaces and provision of educational facilities. Vacant and derelict buildings will be converted into modern accommodation and facilities for the elderly. Semi vacant properties will have tenants relocated by mutual consent and converted to meet modern standards.

551. Projects are already underway which have seen the conversion of derelict structures such as military barracks into accommodation. This forms part of the Government's policy in finding a new use for historic buildings.

552. The Urban Renewal Programme will be an ongoing scheme and will be monitored and reviewed every five years.

553. The total recurrent expenditure budget of the Ministry for Housing currently stands at £9,356,000.

Details as follows:

Total Ministry for Housing - £9,356

Total Government Departmental Expenditure budget - £175m

Ministry for Housing budget as a % of the Government's total budget - 5.96%

554. In addition to recurrent expenditure, the Government operates a fund named the Improvement and Development Fund, which is used for the investment of capital and economic projects. The Ministry for Housing was allocated a budget of £3m during the financial year 2006/2007 from this fund. This budget is used to carry out major remedial works and repairs to the housing rental stock. The Ministry for Housing budget of £3m represents 7.80% of the total Improvement and Development Fund budget of £38,462,000 for this financial year.

555. The Government is also undertaking a major co-ownership project named Waterport Terraces. The cost of this project, which also includes the construction of senior citizen flats for rental, is estimated to be £53.2m and will be funded from the proceeds from the sale of Government properties and central Government funds.

556. The cost of the Government's share of the new home ownership co-ownership schemes, together with the cost of the new housing estate and the senior citizens homes amount to a total investment in excess of £85m.

557. The Government strategic plan in the area of public housing will provide persons on lower incomes who cannot afford to buy even affordable homes and all those who have been waiting for years on the housing waiting lists improved chances of obtaining houses for rental within reasonable waiting times. In addition it will also serve to alleviate the pressure sustained by all those involved in public housing administration who for decades have been doing the best they can administering an insufficient amount of housing stock in response to demand.

558. The Government has no recourse to international assistance or EU funding for housing and human settlements for any purpose.

### **Article 12 - Right to health**

559. Gibraltar has a national health policy of promoting health to all of its resident population and providing health care through a Group Practice Medical Scheme, which covers virtually the entire resident population as well as large numbers of cross-border workers and their dependants.

560. The average Infant Mortality Rate over the past 8 years (1998 - 2005) is less than 1.0. It is not meaningful to disaggregate this figure into smaller denominators.

561. The entire population has free access to desalinated high quality potable water. The entire population is urban.

562. The entire population has access to modern toilets that drain into underground closed sewage systems that empty eventually into the sea. The entire population is urban.

563. Programme of universal immunisation at birth exists that covers diphtheria, pertussis, tetanus, measles, poliomyelitis and tuberculosis. The coverage extends to almost the entire infant population (>95%). The entire population is urban.

564. The Life Expectancy at Birth from figures obtained in the 2001 Census was 78.5 years for males and 83.3 years for females. The entire population is urban.

565. The entire population has access to trained personnel for the treatment of common diseases and injuries, with regular supply of 20 essential drugs, within one hour's walk or travel.

566. All pregnant women have access to trained personnel during pregnancy and all are attended by such personnel during delivery. There has been no maternal mortality in recent memory. The entire infant population has access to trained personnel for care.

567. The Gibraltar population is too small to derive meaningful sub-group analysis of the above data. However, in the future with more sophisticated GIS and patient administration technology, the potential exists for study of inequalities.

568. Two new air-monitoring stations became operational in January 2005. These stations monitor for nitrogen dioxide, sulphur dioxide, carbon monoxide PM2.5 and PM10, heavy metals, polyaromatic hydrocarbons, ozone and volatile organic compounds. Gibraltar therefore complies with EU Directive 80/779/EEC; 89/427/EEC; 82/884 EEC; 85/EEC and 92/72 EEC and their respective Daughter Directives. These are transposed into national law by the Public Health (Air Quality Standard) Rules 1995. A Diffusion Tube Study throughout the territory so as to obtain an indication of local pollution levels supplements these two stations. These tubes monitor Volatile Organic Compounds and Nitrogen Dioxide.

569. The Pollution Prevention and Control Act 2001 transposed the integrated pollution Prevention and Control Directive 96/61EC into national legislation.

570. The European Union Emission Trading Scheme is extended to Gibraltar and Gibraltar has its own National Allocation Plan setting out the carbon emissions for Gibraltar installations qualifying under Directive 2003/87EC. This again has been transposed by the Greenhouse Gas Emissions Trading Scheme Rules 2004.

571. The Public Health Aquatic Environment Rules 1994 controls limits and monitors discharge into the aquatic environment. The Public Health (Urban Waste Water Collection and Treatment) Rules 1998 provides for the collection, treatment and discharge of effluents from all sources.

572. The Solvent Emissions Directive 99/13/EC transposed into national law by the Solvent Emissions Act 2002 regulates and controls all qualifying installations with respect to emissions of Volatile Organic Compounds.

573. The European Directive on Waste 75/442/EEC transposed into national law by the Public Health Act Part V requires registration and licensing of persons performing prescribed activities as defined in the Act in relation to all waste products within Gibraltar's national boundaries.

574. European Council Regulations 259/93 transposed into national law through the Transfrontier Shipment of Waste Regulations 1995 controls shipments of waste within, into and out of Gibraltar.

575. In respect of our obligations there have on occasions been a need to seek commercial assistance from UK based consultants.

576. There have been no changes in national policies, laws and practices negatively affecting the health situation.

577. Antenatal, intrapartum, neonatal and postnatal care is available to all and every pregnancy is carefully monitored at a multidisciplinary level. A Child Welfare programme, covering every child, operates throughout the school years, including comprehensive immunisation, development monitoring and school health.

578. Infections are well controlled through public education, hygienic environmental practices, monitoring of food outlets, comprehensive public sanitation and thorough disinfection of healthcare premises. Gibraltar currently is deficient in occupational health services.

579. Gibraltar has a Group Practice Medical Scheme, which covers virtually the entire resident population as well as large numbers of cross-border workers and their dependants. Gibraltar also operates 24-hour ambulance, casualty and emergency medical service that is available to all.

580. Government funded health care is available to all elderly persons free at the point of delivery and is not subject to means testing.

581. The community traditionally participates well in health care matters. There is a non governmental voluntary Primary Care Users' Forum which government recognises and consults with, formally and informally. Almost all staff of the primary care services are local residents and users of the services. Key arrangements for primary care provision are laid down in statute.

582. The Government funds a Health Promotion service, which is active in providing public education and raising awareness through campaigns, leaflet distribution, public displays, media broadcasts, etc. The Public Health department also publishes an annual report on the health of the population providing statistics and analyses on health matters. There is also a network of websites on health matters. Opportunistic health education is widely practised in the course of routine health care.

### **Articles 13 and 14 - Right to education**

583. Compulsory Government-funded primary education is free for all residents. The Government runs six First Schools, together with a Primary School and a Special School, which also provide primary education. Additionally, there is a privately run Primary School. The Government also offers free nursery education at its eight nurseries - one attached to each of the First Schools and the Special School plus a self-contained one. There are also a number of privately run nurseries and playgroups.

584. Secondary education is also Government-funded and is provided free of charge to all residents. It is compulsory up to the age of 15 but there is a very high stay-on rate post 16. The Government runs two secondary schools and a College of Further Education. All three offer academic and technical courses with the College providing the bulk of the vocational education. Additionally, the Government operates a vocational training scheme whereby trainees access the workplace and there is also a Construction Training Centre and a smaller vocational training centre. Apprenticeships in the engineering trades are also offered at the local dockyard under a Government-run scheme.

585. There is long-established free, Government-funded access to Higher Education at approved UK institutions for all residents. The provision covers tuition fees as well as a maintenance grant. The cost of such higher education provision for the financial year 2006/2007 was nearly £3,400,000. There were just under 600 students in higher education at the start of this academic year (without counting distance-learners, also funded by the Government).

586. Given the free compulsory nature of primary education, there is no perceived need to establish an additional system of fundamental education for those persons who have not received or completed the whole period of primary education. In exceptional cases, life-long learning provision is available through the Adult Education programme at the College of Further Education.

587. No reference needs to be made to any earlier report with respect to the right contained in article 13. Given that the right to education as spelt out in your paragraph 1 has long been established, there is nothing to add with respect to difficulties encountered in the realisation of such provision.

588. Illiteracy levels are negligible in Gibraltar. School standards of literacy compare favourably with UK norms as reflected in standardised tests of literacy. All pupils are formally screened for literacy at the ages of 7/8 and 11/12. In addition to this, individual schools collect

standardised literacy data on every child aged 7 to 12 no less than once a year. Literacy initiatives like the Literacy Hour and support for pupils with learning difficulties are integrated into the normal life of our schools. Additionally, all pupils start school at the very early age of 4 to allow for additional exposure to the English language, which is the vehicle for instruction.

589. The budget sum dedicated to Education & Training for the financial year 2006/2007 was over £25,500,000. As regards the schools system, this is closely modelled on the UK one with obvious adjustments to suit local needs. There are 15 schools in an area of 2.5 square miles for a school population of approximately 5,000 serving a general population of about 30,000.

590. Given the free compulsory nature of our education system, there are no statistically significant adult literacy issues. Special provision is therefore only arranged on an individual basis as the need arises. For instance, TEFL support is provided where possible. No teaching in the mother tongue of students has ever been perceived necessary, although recent trends in immigration might eventually uncover a need for this.

591. With the exception of the private primary school, members of the teaching profession in Gibraltar are Civil Servants enjoying permanent and pensionable status plus salaries on a parity basis with the U.K. These factors, coupled with equal (and often better) working conditions, professional development and support, as well as civil service privileges, make for a very favourable status for teachers within the community.

592. There are 15 Government-funded institutions and one private primary school plus a very small private religious first school. There are no perceived difficulties encountered in accessing those schools.

593. There have been no changes in national policies, laws and practices negatively affecting the right enshrined in article 13.

594. The only international assistance is the Gibraltar entitlement to European Social Fund payments of just over £2,500,000 for training purposes.

### **Article 15 - Right to culture**

595. The Government of Gibraltar has designated a Ministry for Heritage, Culture, Youth and Sport. The Ministry includes a Heritage Division and a Culture Division. These actively promote public participation through a range of activities across the year. These include:

- An annual series of public lectures;
- The organisation of an annual international conference (Calpe Conference, now in its eleventh year) that is open to the public and is fully funded by the Gibraltar Government;
- The organisation of festivals, competitions, cultural events and annual museums open day in which the general public actively participates;

- The production of a range of publications at all levels, from academic to popular; and continuous flow of public information on heritage through press releases, press conferences, television programmes, press articles, etc. In addition, a Heritage Action Committee, a long established body that meets bi-monthly, is a formal meeting point.

596. Gibraltar's culture is predominantly represented as an image of its dynamic history and places its cultural history in the broader context of European History as a whole. The Ministry of Culture works closely with local artists and cultural entities. The creation of the Arts Advisory Council has opened the avenues of interactivity between artists and the Ministry. The Ministry of Culture serves to promote popular participation in culture irrespective of age, race and gender. Cultural activity and artistic freedom is a priority for the Ministry and for this purpose funds in the form of grants, are made available for those promoting and influencing cultural development.

597. The Ministry of Culture adopts policies and strategies to promote popular participation in cultural activities. Cultural Centres, such as the John Mackintosh Hall are run exclusively for the sole purpose of promoting public participation in the arts. For example: - public library, theatre, exhibition rooms and conference facilities. The public library, frequented by all sectors of the community is a member of the Commonwealth Library Association. Its central location and its wide range of facilities have created a cultural centre that is contemporary as well as future oriented. In addition, the cultural infrastructure in Gibraltar includes other theatres, such as the Alameda Open Air Theatre and the Ince's Hall. Exhibition Halls, located in the popular area of Casemates Square are refurbished to a high standard and have become a centre for many cultural functions and events. In its vicinity there are also two other prominent galleries influenced by the arts and craft movement in Gibraltar. The Fine Arts Gallery and the Arts and Crafts Gallery both enjoy generous Government assistance. These galleries serve as a showcase of what Gibraltar's artists have to offer. The frequent exhibitions and events held demonstrate how members within both minor and large cultural groups work together to promote local and international talent.

598. The Ministry follows a holistic approach to local cultural heritage that is inclusive of all groups that make up the Gibraltarian community. All programmes and activities are fully inclusive. The mass communications media play a vital role and there is a close communication between Ministry and media to ensure free and continuous flow of information.

599. The Ministry has created an Institute of Gibraltarian Studies to promote the Gibraltarian cultural identity at all levels.

600. The Gibraltar Museum, part of the Ministry, is extremely active locally and internationally. Its role includes research, conservation and interpretation of cultural heritage. Recent work has included major discoveries of late surviving Neanderthal populations, of a rich Phoenician sanctuary, a major excavation programme of medieval Islamic sites, an active programme of integrated heritage management of all assets that span the period between 120 thousand years ago to the present day.

601. The Gibraltar Museum has a well-established and on-going liaison with the Education Department, which includes a popular and active programme of school participation in cultural heritage and historical activities, including hands-on projects. All Gibraltar schools take part and these programmes are integrated in the national curriculum.

602. The work carried out at the Gibraltar Museum and other important historical sites, for example World War II Tunnels, Galleries, Moorish buildings, etc is one of the most rapidly developing fields tackling Gibraltar's cultural heritage and the science of conservation. Researching the past, and conservation of this for future generations, is at present, primarily, in Gibraltar's list of priorities as regards cultural conservation. This work is radically future oriented and clearly demonstrates how heritage groups within a small city like Gibraltar are acting and how much importance is attributed to it. At present, this has created a cultural infrastructure in response to our changing ways of cultural consumption. Frequent talks and seminars, some of international importance for example Calpe Conferences, held annually, aspire to be an incentive to alert public participation and its applications.

603. The Ministry, through the Heritage Division, pursues an active and dynamic programme of cultural heritage management that includes research, stewardship and interpretation across the whole territory.

604. The members of the Arts Advisory Council, many of whom are artists themselves, are the national representatives for the arts in Gibraltar. The Council meets four times during the year and invites wider members from the sector to be involved in specific discussions. The Board is keen that everyone has the opportunity to have their say on the issues raised. The Council influence and advise Government in the creation and implementation of an arts policy and enable policy makers to set out shared strategic objectives:

- To improve the opportunities available throughout Gibraltar for people to engage with the arts and in particular to increase the number of people from any groups who participate in the arts and attend arts events;
- To improve the opportunities for children and young people to experience the arts and develop their artistic and creative skills;
- To support an infrastructure of excellence producing internationally recognised artistic work across the arts sector;
- To be an authoritative development agency and advocate for the arts;
- To improve organisational delivery.

The Arts Advisory Council is responsible and provides guidance for:

### **Development programme for young people**

605. Summer development programmes are very popular and have succeeded in creating mutual appreciation of all art forms irrespective of gender, religion or cultural background. Involvement with the arts has a dramatic and lasting effect on young people. Arts education is a critical part of the Department's work. There are competitions (International and Spring Festivals) and exhibitions throughout the year where young artists are encouraged to exhibit their work. The role and commitment of the mass media has contributed into promoting all schemes and projects organised by the Ministry of Culture.

606. Art education, both in and out of formal education, has been shown to stimulate pupils' imagination and motivate their interest in learning, which helps to raise attainment levels overall. Individuals and cultural groups are very involved in providing tuition and guidance to the younger generations. The Ministry of Culture works closely with those involved, habitually providing services and materials free of charge. Arts education can also stimulate a life long love of the arts and encourage young people to pursue creative careers, all of which maintain Gibraltar's position as an artistic nucleus.

### **Creative partnerships**

607. Bringing school children and their teachers together with creative organisations and individuals to work in partnership on creative projects. The Department of Education and Training organises cultural exchanges for its students and teachers and those from the Spanish mainland. These exchanges are normally of a historical and educational nature.

### **Cultural grants committee**

608. The subcommittee assist Government in deciding funding for individual art forms and art organisations and the board brings together representatives from the arts with the aim of implementing the actions agreed in the Government's response and building a more coherent 'creativity offer' for all people.

609. This means that decisions on how much support should be given to a particular artist, theatre, cultural organisation or music group are taken by experts in Arts Councils, and not at ministerial level. This principle has been a feature of the funding system in Gibraltar for many years.

610. To achieve our vision to extend excellence and improve access in all sectors we have developed strategic priorities around which we organise our work. The Ministry's strategic priorities are broken down as follows:

### **Children**

611. The aim is to further enhance access to culture and give children the opportunity to develop their talents to the full and enjoy the benefits of participation. Ensure that everyone, whatever their background, gets the chance to experience and participate in the arts for the first time, both in and outside school. Educational and environmental competitions are organised by the Ministry of Culture and are run through the schools.

612. Additionally, ensure that everyone has the opportunity to deepen their interest and develop their talent in the arts to the full, to a level that suits them both in and outside school. Also that our most talented young artists have access to the very best tuition and support they need to fulfil their potential.

613. Globally our objective is to promote a skilled workforce in the arts sector, including a world-class arts education workforce.

## **Communities**

614. Increase and broaden the impact of culture to enrich individual lives, strengthen the community and improve the places where people participate or actively pursue cultural activity, now and for future generations.

## **Economy**

615. Maximise the contribution that the tourism, creative and leisure sectors can make to the economy.

## **Delivery**

616. Modernise delivery by ensuring the Ministry and any sponsor or body are efficient and work with others to meet the cultural needs of individuals in our community. The Ministry also aims to:

- Broaden access for all to a rich and varied artistic and cultural life;
- Ensure that the artistic activity funded aspires to be world class;
- Ensure that everyone has the opportunity to develop artistic talent and to achieve excellence in the arts;
- Develop the educational potential of all the nation's artistic and cultural resources;
- Raise standards of artistic and cultural education and training in consultation with the Education Department;
- Ensure an adequate skills supply for the arts and cultural sectors;
- Reduce the number of those who feel excluded from society, by using the arts.

617. The aim of the Ministry of Culture is to promote the significance of festivals. Therefore, by establishing and promoting the festivals the Ministry of Culture seeks primarily to:

- Coordinate the efforts of its staff and cultural organisations;
- Facilitate cooperation and co-production between private and public sectors;
- Set common policy;
- Promote multidisciplinary tendencies;
- Underline the state of art in society;

- Act prominently in the best interests of culture irrespective of age, gender, religion or background;
- Provide a safe environment for all and especially cater for the needs of senior citizens.

618. The Ministry of Culture leads on these issues by being the main organiser of the most important artistic and cultural events held in Gibraltar some of which are:

### **Spring festival**

619. This Festival is held annually during the month of May. It is predominantly a collaboration between the Ministry of Culture and cultural/heritage groups and individuals. All art forms are fused into a three-week programme of intense cultural activity, competitions, seminars, recitals, exhibitions, performances, etc. The role of the local media has increased during the last few years. This has allowed for the improvement of the festival by providing more press coverage, and in turn alerting and securing private sponsorship of many new events.

### **Summer nights/cultural development**

620. The long Mediterranean summer provides an excellent opportunity to bring cultural life to the open. Summer Nights is essentially a festival of music and dance and is held twice a week for, a minimum of six weeks, in Gibraltar's popular Casemates Square. The Ministry of Culture secures public participation by contracting private sector companies and professionals that specialise in the field of Music and Dance. National and international artists have performed in Gibraltar, and care is taken to ensure that all the community has an all round sample of local overseas talent. The Cultural Development programme is held in conjunction with a similar programme held by the Sports and Leisure Authority. Its main goal is to supply the community with varied cultural courses and tuitions. At present, the programme has succeeded in securing the participation of the largest cultural groups and has excelled in the promotion of cultural awareness especially in young people and children.

### **Annual fair**

621. The Annual Fair also provides the Ministry of Culture with an excellent opportunity for propagating the arts in Gibraltar. Nine days of fairground activity enables the Ministry to utilise this focal point by presenting a wealth of local talent to the area. Two large marquees are set up in the vicinity of the fairground where the community can sample local cuisine as well as enjoying varied entertainment. Participation in the deepest sense of the term is the aim here. Every single performance is different from the next one. Citizens use these areas to meet and appreciate others and the different forms of activity enable those who wish to participate to do so.

### **Drama festival**

622. This Festival is held once a year and its exclusive value is to promote drama production. The Festival is organised by the Ministry in conjunction with the Gibraltar Amateur Dramatic Association. This Festival is open to any national, international group or individual who must provide at least one play for the Festival. The Ministry of Culture absorbs all the costs of this

Festival, as this is one of the art forms that needs the most support. The Festival runs for at least seven days depending on the number of plays. The Ministry continues to be aware of changes in the landscape of taste and education, and has secured the involvement of responsible persons whose purpose is to think about professionalism for a variety of audiences, cutting across social and ethnic boundaries.

### **International art exhibition**

623. This is held once a year. The International Art Exhibition is the most important art exhibition held in Gibraltar. Artists both local and international come together to exhibit their work, in both painting and sculpture. The exhibition is competitive and attracts a large amount of participation from amateurs and professionals. The Ministry of Culture absorbs all costs, although the Fine Arts Association assist with certain logistics of mounting such a large exhibition. The International Art Exhibition normally attracts much media and public interest therefore; works are usually on display for several weeks. In the last few years the local TV station has produced special programmes based on the International Exhibition and this has helped in bringing more cultural input and community awareness.

### **National Day/National Week**

624. Events for National Week (September) are organised by the representatives from the Ministry of Culture. Many social, cultural and sporting events have been organised in addition to fun and leisure events and competitions such as the photographic competition “Our Gibraltar” designed to emphasise and celebrate Gibraltar’s identity as a people. The objective has been to create a truly festive atmosphere, a celebration of Gibraltar and its people, opportunities to disseminate unity and harmony in the community. A significant amount of work and thought have always gone into the provision of a variety of events that cater for wide audiences, citizens of all ages who have much to enjoy in the lead up to National Day on the 10<sup>th</sup> September. National Week events include local and international Rock/Pop artists and, last year, for the first time, an event dedicated exclusively to Jazz. This is in addition to dance both classical and contemporary for a weeklong programme of diverse cultural entertainment that brings the whole community together in a spirit of fun.

625. Lovers of classical music are well catered for and look forward to the traditional Classical National Day Concert at St Michael’s Cave. Arranged for Government by the Gibraltar Philharmonic Society, the Concert always features an attractive repertoire. New proposals have been put forward for the next National Week and will include poetry and drama. Media coverage of National Day and National Week is exhaustive and serves to promote the Gibraltarian identity.

### **The freedom of individuals**

626. The protection of fundamental rights and freedoms is contained in the 2006 Gibraltar Constitution. The freedom of expression, conscience and protection from discrimination are all enshrined in Chapter 1 of the Gibraltar Constitution 2006. The Government of Gibraltar continues to work on strengthening the United Nations International Covenant on Economic, Social and Cultural Rights. The Ministry of Culture has the ambition of progressing in unifying

audiences and artists, enabling visitors to come and experience the enjoyment of our festivals and events. Furthermore, we continue to create an uplifting experience for our society, whereby each event is a herald of innovation in art, and therefore an extremely positive exposure of the artists' work in a tolerant and open society.

627. Increased awareness of natural heritage is evident not just from the media, but from the Government's increased impetus in environmental matters, through the development of its own Environment Ministry, supported by the development of a scientific/technical base both at the Botanic Gardens and at the Museum, and a number of its other activities such as the World Environment Day activities and by means of the Government's Environment Charter.

628. A specific example of the use of scientific progress to benefit people, is the pollution monitoring equipment that is up and running. The setting up of the Climate Change forum is another way of responding practically to an increase in scientific knowledge.

629. Government encourages practical conservation by the way of such contracts as the management of the Botanic Gardens, the Macaque Management and support for the Biodiversity Project. Regarding freedom for scientific research, the Gibraltar Ornithological and Natural Heritage Society (GONHS) carry out a great deal of research, as do the Botanic Gardens and the Museum, and this is encouraged and supported by the Government of Gibraltar.

630. In relation to the promotion of international cooperation, we would highlight the following:

- The signing of the Macaque Research Project with the University of Vienna;
- The Government's EU Unit supporting GIBMANATUR, the INTERREG IIIA collaborative project with Rabat University, the encouragement of GONHS collaboration with entities like the German Primate Centre, Notre Dame University in Indiana and the Botanic Gardens cooperation with botanic gardens worldwide through Botanic Gardens Conservation International.

631. Environmental legislation in Gibraltar is stated below:

(Note: PHA stands for Public Health Act.)

### **Air**

The Air Quality Framework Directive (96/62/EC) (1999/30/EC) (2000/69/EC) (2002/3/EC) (2004/67/EC) - PHA Air Quality Limit Values Rules 2002.

Ozone Daughter Directive (2002/3/EC) - PHA Air Quality Ozone Rules 2004.

Substances that deplete the ozone layer. Regulation 2037/2000, 3093/94 - Environmental Protection (control of substances that deplete the ozone layer) Act 1997.

Directive on the limitation of emissions of certain pollutants into the air from large combustion plants (2001/80/EC) - Large Combustion Plants Act 2003.

(2002/84) Maritime safety and prevention of air pollution from ships - Gibraltar Merchant Shipping (safety etc) Act.

Amending Regulation EC No 2037/2000 of the European Parliament and of the Council with regard to the use of ozone depleting substances - to be transposed.

## **Waste**

Disposal waste oils 75/439, 87/101, 91/692 - PHA Part VA (Waste).

Disposal of Hazardous Waste (91/689/EEC) (94/31/EC) (2000/532/EC) - PHA Part VA (Waste).

Waste Framework Directive (75/442/EC) (91/156/EC) - PHA Part VA (Waste).

The Landfill of Waste (1999/31/EC) - Landfill Act 2002.

The Incineration of Waste (2000/76/EC) - Waste (Incineration) Act 2003.

End of Life Vehicles (2000/53/EC) (2002/151/EC (2002/525/EC) - End of Life Vehicles Rules 2004.

EC Regulation 259/93 on the supervision and control of shipments of waste within, into and out of the European Community - PHA Part IIB (Trans frontier Shipment of Waste).

Waste Electrical & Electronic Equipment - 2002/99/EC as amended by 2002/108/EC - to be transposed.

Disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) 96/59/EC - Environmental Protection (Disposal of dangerous substances) Ord 2000/PHA Part VA (Waste).

Incineration of hazardous waste (94/67/EC) - PHA Part VA (Waste).

Bathing Waters Directive (76/160/EEC) - PHA Quality of Bathing Water Rules 1992.

Water Framework Directive - Integrated River Basin Management (2000/60/EC) - PHA (Water Framework) Rules 2004.

Drinking Water Directive - PHA (Water Framework) Rules 2004.

Urban Waste Water Treatment 91/271/EEC, 98/15/EC - PHA (Urban Waste Water Collection & Treatment) Regulations 1999.

Drinking Water intended for human consumption (80/78/EEC) (98/83/EC) - PHA (Potable Water) Regulations (POTABLE WATER) Rules 1994.

Groundwater Directive (80/68/EC) - PHA (Water Framework) Rules 2004.

Pollution caused by certain dangerous substances discharged into the aquatic environment (76/464/EEC) (86/280/EEC) (90/415/EEC) - PHA (Pollution of the Aquatic Environment) Regulations and Rules 1994.

### **Biodiversity/wildlife/nature conservation**

Habitats Directive 92/43/EEC) - Nature Protection Act.

Wild Birds Directive - Nature Protection Act.

Keeping of Wild Animals in Zoos (99/22/EC) - Keeping of Wild Animals Act.

CITES & EC Regulation 1332/2005 amending EC Regulation 338/97 - Endangered Species Act.

### **Emissions reductions/trading**

Greenhouse Gas Emissions Trading Directive (2003/87/EC), amendment establishing a scheme for greenhouse gas allowance trading (2004/101) - Greenhouse Gas Emissions Trading Scheme Rules 2004.

Emissions Ceiling Directive 2001/81/EC - PHA (National Emissions Ceilings) Rules 2003.

### **Noise**

Assessment and Management of Environmental Noise Directive - 2002/49/EC - to be transposed.

### **Access to information/data protection/public participation**

Public Access to Environmental Information - Directive 2003/4/EC - The freedom of access to information on the Environment Regulations 2005.

Public Participation on decision-making - 2003/35/EC - Public Health Amendment No. 2 Act.

### **Fuel/energy**

Promoting the use of Bio fuels or other renewable fuels for transport - 2003/30/EC - Environment Bio fuels Regulations 2005.

Sulphur content in fuels 99/32/EC, 2005/33/EC - Motor fuel composition and content Act 1998 and 2001.

Fuel Economy Directive (99/94/EC) - Transport (passenger car fuel consumption & CO2 emission Information) Regulations 2003.

Directive 2001/77/EC on the Promotion of electricity from renewable energy sources in the internal market - to be transposed.

### **Hazards/dangerous substances/radiation**

Control of major accident hazards (96/82/EC) (2003/105/EC) - PHA Part IIA (Control of Major Accident Hazard).

Control of Asbestos at Work Directive 98/24/EEC - to be transposed.

96/29/Euratom Radiation (Emergency Preparedness & Public Information) Regulations 2004 - Control of high activity sealed radioactive sources and orphan sources - 96/29/Euratom Radiation (Emergency Preparedness & Public Information) Regulations 2004.

### **Pollution**

Large Combustion Plants (88/609/EC) - Large Combustion Plants Act.

The Prevention of Air Pollution from New Municipal Waste-Incineration Plants (84/360/EEC) (89/369/EC) - PHA (Offensive Trade) Rules 1990.

The reduction of pollution from existing Waste-Incineration Plants (89/429/EC) - PHA (Offensive Trade) Rules 1990.

### **Environmental assessment/management**

Strategic Environmental Assessment - Environment act 2005.

Environmental Impact Assessment - Town Planning (Environmental Impact Assessment) Regulation 2000.

Assessment of certain plans and programmes on the environment (2001/42/EC) - Environment Act 2005.

### **Industry**

Large Combustion Plants (88/609/EC) - Large Combustion Plants Act.

The prevention of air pollution from New Municipal Waste-Incineration Plants (84/360/EEC) (89/369/EC) - PHA (Offensive Trade) Rules 1990.

The reduction of pollution from existing Waste-Incineration Plants (89/429/EC) - PHA (Offensive Trade) Rules 1990.

### **Emissions/discharges**

Limitation of Emissions of VOCs due to use of organic solvents in certain paints and varnishes and vehicle refinishing products (2004/42) - Solvent Emissions Act 2005.

Control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations (94/63/EC) Amended Regulation (EC) No 1882/2003 - Petroleum Rules 2001.

Limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry (82/176/EEC) (84/156/EEC) - PH (Pollution of the Aquatic Environment) Regulations and Rules 1995.

Limit values and quality objectives for discharges of hexachlorocyclohexane (84/491/EEC- PHA (Pollution of the Aquatic Environment) Regulations and Rules 1996.

### **Genetically modified organisms**

Controlled use of genetically modified micro-organisms (90/219/EEC) (94/51/EC) - PHA Part IV A GMO (Contained Use) Regulations 2001.

Deliberate release into the environment of genetically modified organisms (90/220/EEC) (84/15/EEC) - PHA Part IV A (GMO) Deliberate Release Regulations 2003.

### **Liability**

(204/35/EC) on Environmental Liability with regard to the prevention and remedying of environmental damage - to be transposed.

### **Shipping/marine**

Minimum requirements for vessels bound for leaving community ports and carrying dangerous or polluting goods (93/75/EEC) as amended by 96/39/EEC, 97/34/EC, 98/55/EC - Merchant Shipping (carriage of dangerous or polluting goods) Act 2000.

Port reception facilities for ship generated waste and cargo residues (2000/59/EC) - Gibraltar Merchant Shipping (Port Waste Reception Facilities) Regulations 2002.

There have been few legislative measures, which deal specifically with cultural and scientific life. One of the few has been the Copyright Act 2005 which introduced a new copyright law for Gibraltar setting out the rights of copyright owners, including moral rights and also setting out what acts are permitted and restricted in relation to work under copyright as well as providing for remedies for infringements of the rights.

## CHAPTER 6. REPORT FROM ST HELENA

### 1. General information

632. The committee is referred to the core document (“the country profile”) in respect of St Helena which is contained in Annex X to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of this annex, the position as regards the matters covered by that core document remains substantially as there described but the following statistics should be substituted, as appropriate, for those set out in paragraph 2 of the Core Document.

Gross domestic production £3,463 per head	£14.2 million - 2004/05
Rate of inflation	3.6% - 2005
Rate of employment	88.8% - 2002/03
<u>Literacy rate</u>	
Males	98 per cent (1998 census)
Females	98 per cent (1998 census)
Population	4,157 (December 2006)
<u>Life expectancy</u>	
Males	71.9 years (1989 - 1998 average)
Females	78.4 years (1989 - 1998 average)
Infant Mortality rate	0 (2006)
Birth rate (5-year moving average, 1994/1998)	12.4 per 1,000 population
Death rate (males) (5-year moving average, 1994-1998)	8.9 per 1,000 population
Death rate (females) (5-year moving average, 1994-1998).	8.0 per 1,000 population
<u>Percentage of St Helenian resident population under 15 years of age</u>	
Males	23.1 per cent (1998 census)
Females	19.6 per cent (1998 census)
<u>Percentage of St Helenian resident population over 65 years of age</u>	
Males	8.7 per cent (1998 census)
Females	14.0 per cent (1998 census)

Percentage of St Helenian resident population in rural and urban areas	Rural 60 per cent (1998 census) Urban (Jamestown and Half Tree Hollow) 40 per cent (1998 census)
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## Religions:

Church of England

Males	82.4 per cent
Females	81.9 per cent

Jehovah's Witness

Males	5.0 per cent
Females	6.3 per cent

Baptist

Males	2.5 per cent
Females	2.1 per cent

## 2. Information relating to substantive articles of the covenant

633. The following paragraphs of this annex report, the relevant developments that have taken place (including any problems that have been encountered) since the submission of the United Kingdom's second periodic reports under articles 6 - 9, 10 - 12, and 13 - 15 of the Covenant in respect of St Helena - or, where a more up-to-date or fuller account was given in the course of the Committee's examination of these reports, since that account was given. For those articles of the Covenant not specifically mentioned, there are no such developments to report.

### Article 1

634. There is no body of opinion in St Helena which advocates independence or any similar change in the status of the territory; the very small size of the territory, its population, and also its geographical remoteness, would obviously present major obstacles to any such development. However, bearing in mind the right of self determination recognised in article 1 of the Covenant, the United Kingdom Government is alert to the need to ensure that the constitutional arrangements for St Helena remain suitable to the needs and aspirations of its population.

635. There were insufficient nominees at the general election for a Council to be formed. The Governor is making interim arrangements to receive advice.

### Article 2

636. With reference to article 2 (2) of the Covenant and specifically with reference to discrimination on grounds of race, etc, the Committee's attention is drawn to the United Kingdom's fourteenth periodic report in respect of St Helena under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (paragraphs 301 - 303 of CERD/C/299/Add.9) and also to the fifteenth periodic report which was submitted recently but has not yet been issued as a CERD document. As regards the legislation referred to in paragraph 303 of the fourteenth report (i.e. legislation modelled on the United Kingdom's Race Relations

Act 1976), the fifteenth report now shows that the relevant Ordinance for the island of St Helena (the Race Relations Ordinance 1997) was enacted on 26 March 1997. It came into force immediately and it has now been applied to Ascension also. As the reports explain, Tristan Da Cunha already had its own Ordinance, enacted in 1996.

### **Article 3**

637. It continues to be the case that men and women in St Helena are equal in the enjoyment of all the economic, social and cultural rights set forth in the Covenant. In the public sector, the laws which prescribe the qualifications of candidates for elected office, and of voters in elections to such office, make no distinction between men and women. The 12 elected members of the Legislative Council at present include 1 woman. As at April 2007, there was a total of 1014 Employees in the public service (excluding “community workers”: see paragraph 250 below) of whom 433 are men and 581 women. While no corresponding statistics are available for the private sector, women are also active and are employed on an equal footing with men. The Supreme Court has ruled that the UK’s Human Rights Act 1998 applies to St Helena. In this context elected members are currently considering human rights of whether they should be in the constitution.

### **Article 6**

638. As indicated in paragraph 238 above, there is no differentiation between men and women in St Helena in respect of employment. However, as between St Helenians and non-St. Helenians, it is the policy of the St Helena Government that vacancies in employment should be filled by St. Helenians whenever practicable and, in pursuance of that policy, the Immigration Control Ordinance 1998, prohibits persons, other than those who have “St Helenian status” and their spouses, from working in St Helena unless they have been granted a work permit under the Ordinance. Under this Ordinance, St. Helenian status is enjoyed automatically by persons who have the prescribed connection with St Helena by birth or descent but it may also be acquired by other persons if they satisfy the Immigration Control Board (which consists of seven St Helenians appointed by the Governor) that they are of good character and that they comply with certain other statutory conditions. Work permits continue to be issued by the Immigration Control Board and are not issued unless the applicant has the particular qualifications, skill or experience needed for the employment in question and there is no suitably qualified St Helenian available.

639. The Department for Employment and Social Security is responsible for employment issues. The unemployment rate has decreased in recent years. It was as high as 515 in 1996/97, had dropped to around 200 in 2003 and by March 2007 to 100. This is partly due to more people taking up employment off shore because of better pay and conditions. The restoration of British Citizenship also saw more families moving to the UK. Since the 2003 report a Long-Term Unemployment Policy has been written and approved. It provides a range of initiatives and a training programme to help the unemployed return to full time employment.

640. Work placements: the unemployed are put into working environments within government departments to gain experience. If they are capable of mastering the skills required to do specific jobs, they are taken on full time when vacancies arise.

641. Training and Work Experience Scheme: the unemployed are placed with either government departments or Private Sector organisations, who agree to provide a training programme for a specified period of time to enhance their skills. There is the prospect of employment once the training is completed. Each organisation is rewarded with a percentage of wage subsidy for the training they provide.

642. Self Employed Business Scheme: this is being piloted for the unemployed who have skills and some capital but cannot find employment. Assistance is given by the St Helena Development Agency (SHDA) to set up small viable businesses. Support is given by the Employment & Social Security Department for the first year and the business is regularly monitored by SHDA and the department. Occupational Therapy Scheme: this is for the unemployed who have disabilities but are able to carry out some types of work. The unemployed are placed with different organisations in suitable working environments in consultation with social services and mental health services. This enables clients to rehabilitate and allow assessments to be carried out with the possibility of moving to full time employment.

643. Because of the special circumstances of Ascension Island, there are some particular restrictions on entry for the purposes of employment there. A would-be employee must be medically fit for the job in question and the minimum age for admission for employment is 18 years (except in the case of young persons already residing on Ascension with their parents). The fact that family accommodation is limited means that some jobs are available only on an "unaccompanied" basis. In addition, since there are no appropriate child care services on Ascension, employees not accompanied by spouses or partners may not bring children with them.

644. In 1995 the St Helena Development Agency was established with the task of helping to create a self-sustaining business community. It offers financial assistance to the private sector financial services and enterprise training.

645. As part of equal employment opportunities, the introduction of a Social Enterprise Charitable Company known as SHAPE (St Helena's Active Participation in Enterprise) is being supported by the Employment and Social Security and Public Health and Social Services Departments, the Society for the Disabled and the SHDA, for the employment of people with disabilities. This is a flagship project because the aim is to have this charitable company run by those with disabilities. The idea was initiated by COPE (Community Opportunities for Participation in Enterprise) a social enterprise company from the Shetland Islands producing soap and beauty products for niche markets. The Occupation Therapy Scheme mentioned above can also be used to get the unemployed into the company and assist with sustainability of work for people with disabilities.

646. The Personnel Department works in partnership with the Adult and Vocational Education Service in the Education Department and the Employment and Social Security Department to manage a Youth Development Scheme. Youths who register as unemployed because they do not wish to remain at school or have left for other reasons, can apply for work experience. These

youths are placed with various organisations, appropriate to their interest, so that they too can gain experience and skills to enable them to move into full time employment. Most of the training under this scheme applies to post compulsory school students and is provided in Prince Andrew School or by various government departments and by the private sector. Due to the numerous factors that impact on education and training it was recognised that Adult and Vocational Education needed to be restructured. The issues identified that initiated this change include:

- Island change at a political, social and economic level;
- The need for an island wide training approach in supporting change;
- Overcoming barriers to the implementation of a training strategy. These include cost, lack of qualified teachers/trainers, acceptance and cooperation by and between relevant island departments and organisations;
- A need for a sufficient, centralised budget; genuine partnership working; a coordinated management approach to training delivery;
- A wide variety of skills gaps ranging from basic skills, trade skills to high level management skills;
- Training programmes that need to be diverse to meet the needs of individuals, government and private sector employers;
- A need for appropriate recognised qualifications.

647. Therefore in July 2006 SHG formally approved an Adult and Vocational Education Strategy. This strategy aims to provide St. Helena with an appropriately skilled and qualified workforce able to meet its future needs in relation to growth and sustainability by defining and meeting the changing training/learning needs of the individual organisations and enterprises of St. Helena through an efficient, cost effective, professionally managed and centrally coordinated Adult and Vocational Education Service.

648. In order to meet people's needs the Adult and Vocational Education Service (AVES) on St Helena has to cover a range of provision in terms of institutional arrangements, staffing, learning content and levels while, at the same time, having a flexible approach to delivery.

649. To date the institutional arrangements are:

- Redesignation of the Teacher Education Centre as the Adult and Vocational Education Centre;
- The appointment of a manager and support staff;

- The consolidation of staff to a centralised Adult and Vocational Education Centre, covering National Vocational Qualifications (NVQ), Information Technology, Community Learning and other Accreditations;
- The School of Nursing shares the Adult and Vocational Education Centre premises;
- The formation of an Adult and Vocational Education Service Council with representatives from all key stakeholder groups on St. Helena. This Council will have strategic responsibility for overseeing the service.

650. To date learning programmes offered are:

- NVQ Health and Social Care, NVQ Crop Production and NVQ Business and Administration. Further to this, training will be offered in Vocational Related Qualifications (VRQs) in Basic Construction, Automotive Repair and Hotel Catering;
- Information Technology is offered through the delivery of local courses. These include: Basic Introduction to Computers, MS Word, MS Excel, MS Outlook, MS PowerPoint, MS Publisher and MS Data Base training. Training has also been provided to school secretaries in IT skills;
- Community Learning Courses are offered across a wide spectrum and include the following: Adult Literacy and Numeracy, Lace Making, Tailoring, Arts and Crafts, First Aid, Supervisor Training, IT training, GCSE English, Mathematics and Science, Senior Management Training, Customer Care. The following leisure programmes are also offered: indoor football, badminton, gymnasium and squash;
- Other accredited courses have been offered to clients on an ad hoc basis, with the following courses attended to date: Construction training in South Africa, Construction Health and Safety Training in the United Kingdom. This training will underpin the training planned in the Construction Skills Certification Scheme (CSCS). The Adult and Vocational Service is currently exploring the possibility of introducing UK accredited apprenticeships. Further to this the service is also securing partnerships with South African institutions of further and higher education for distance and residential learning.

651. St. Helena's Community High School (the Prince Andrew School) provides further education classes for adults in a number of academic subjects, including Mathematics, English, Science and Information Technology. These courses, held on two evenings per week free of charge, lead to international certificates. Additionally recreational activities are also provided

throughout the week, in partnership with AVES. A small fee is charged. There are no colleges or universities on St Helena. There is a shared DFID/SHG sponsored student scholarship award for Prince Andrew School leavers who have completed their Year 13 studies and who qualify under the defined criteria. The Award is managed by the Education Department under the auspices of the Scholarships Awards Committee. There has been funding for 2 to 3 awards per year depending on courses being followed. Since the reduction of fees for Overseas Territories students studying in English universities, this number could increase, though living costs and other expenses including travel all needs to be provided for under the Award. There are currently six students in tertiary education in UK at various stages of completing degree courses and 2 students due to start this academic year. There are other overseas scholarship opportunities which arise from time to time such as Commonwealth Fellowship Awards and FCO Chevening but these are highly competitive. Other overseas training opportunities are becoming available through EU schemes and are identified through the Head of Development & Economic Planning Department in collaboration with the AVES.

### **Article 7**

652. As indicated in paragraph 238 above, there is no differentiation in St Helena between men and women in terms of conditions. 247. The St Helena Government operates on an equal pay for equal work basis. Women are not discriminated against. Most senior posts within the Saint Helena Government are held by women. Promotion of staff is on merit. There is a Job Evaluation Committee that assess job profiles for established posts within the Saint Helena Government. This committee was set up in 1988 by Consultants from the United Kingdom.

653. There have been no fatalities from occupational accidents. Most accidents at work are minor. There is a system set up for reporting of all accidents at work and employees can claim under the Workmen's Compensation law. Laws and Practices in regard to rest, leisure and working hours are broadly in line with the EU Directive. All staff receive remuneration if they work on public holidays.

### **Article 8**

654. The law of St Helena has for very many years recognised and protected the right to form and join trade unions. Under the Trade Unions and Trade Disputes Ordinance 1959, which is still the operative legislation, the persons who form a trade union must, within three months of its formation, apply to the Registrar of Trade Unions for it to be registered. Various procedural requirements have to be complied with, e.g. the furnishing of information about the union's rules and their provision for the protection of members' rights and the proper management of the union's funds and property. Once registration has been effected, the union, and its officials and members, are given legal protection for acts done by or on behalf of the union in for furtherance of a trade dispute. However, despite this long-standing legal framework, there are no trade unions currently registered under the Ordinance. There is no identifiable reason for the lack of interest, hitherto, in trade union activity but it is thought possible that the situation may change with the steady growth of employment in the private sector.

### Article 9

655. St Helena's Social Security System is administered by the Employment and Social Security Department of the St Helena Government. Currently, the following benefits, which are paid on a weekly basis, are available:

Community Work Scheme	Single/Married	£32:73
Child Allowance		£6:45 per child up to compulsory school age
Unemployment Allowance	Single	£15:08
	Married/Couples	£30:16
	Child Allowance	£6:45 per child up to compulsory school age
Income Related Benefits	Single	£23:60 aged 60 years and above or medical certified as unfit for work
	Married/Couples	£35:64 aged 60 years and above or medically certified as unfit for work
	Child Allowance	£8:75 per child up to compulsory school age
Disabled Allowance		£9:45
Pregnant Mothers Allowance		£23:60
Occupational Therapy Scheme		£30:52
Rent Rebate		Up to 75 per cent of total rent

656. The maximum payable for Community Work Scheme or Unemployed is £45 and for Income Related is £47:50.

657. The Community Work Scheme referred to above seeks to provide workfare programmes of benefit to the community. All those who register as unemployed and available for work are placed on the Community Work Scheme after receiving unemployment benefits for four weeks. The different schemes are referred to in 240 above. There are currently 60 people on the scheme compared to 176 in 2003 when the Long-Term Unemployed Policy was first introduced.

658. The Social Security System as described above is fully financed by the St Helena Government and currently accounts for 8.1 per cent of the Government's recurrent budget (compared to 7.1 per cent in 2005/06). As of March 2007, the numbers of persons receiving Social Security Benefits were as follows:

- Community Work Scheme 60
- Unemployment 28

- Unemployment Youths 6
- Income Related Benefits 615
- Disabled 85.

### **Article 10**

659. The measures and arrangements currently in operation in St Helena for the protection and support of the family, of mothers, and of children and young persons are substantially as previously reported. But attention is drawn specifically to the following features and new developments.

660. All persons who have attained the age of majority may marry freely. For most purposes the age of majority in St Helena is the same as in the United Kingdom, i.e. 18 years of age. But in the particular case of marriage it is 21 years, and persons under that age who wish to marry need the consent of a parent or guardian or, if such consent is withheld, of the Supreme Court.

661. In addition to operating the Social Security System described in the paragraphs above the Employment and Social Security Department is responsible for managing the St Helena's Government's Social Housing for those persons who are unable to provide their own homes. There is currently a stock of 182 social houses and flats known as Government Landlord Houses all of which are occupied. The department is in the process of building 6 more units for single persons from whom there is the greatest demand. There are still 70 applicants on the waiting list.

662. The income tax system continues to make provision in support of families. In addition to the basic personal allowance of £2000 there is a child allowance of £330 for the first child, £220 for the second child and £80 for each subsequent child.

663. As regards the protection and support of expectant and nursing mothers the Public Health & Social Services Department of the St Helena Government ensures the provision of antenatal care (including regular examinations and tests, parent - craft classes and the administering of iron and vitamin supplements throughout pregnancy). This antenatal and postnatal care is available to all women and is free of charge. All public service employees are entitled to 12 weeks maternity leave, six weeks before birth and six weeks afterwards, and their jobs are preserved for them during that leave. All pregnant women who are without adequate financial support can claim the pregnancy allowance (currently 23.60 per week) under the social security scheme administered by the Employment and Social Security Department.

664. As regards the care and protection of the children of working mothers, it is still the case in St Helena that a very important role is played by grandparents. However, in recent years there has been an increased tendency for working mothers to have to resort to childminders outside the family, and there is now a children's crèche which was established some years ago and which continues to operate satisfactorily. Currently another crèche is being constructed.

665. More generally as regards measures for the protection and welfare of children, the Committee's attention is drawn to the following. First, the Convention on the Right of the Child was extended to St Helena on 7 September 1994. The United Kingdom's initial report in respect of St Helena under the Convention was submitted to the Committee on the Rights of the Child in March 1999.

666. Partly because of the need to ensure full compliance with the Convention on the Right's of the Child and partly because it had become apparent that the law of England ( which had previously been the governing law in St Helena in this field) was no longer wholly applicable to local circumstances, a new ordinance (the Child Care Ordinance 1996) was recently reviewed with a view to updating and gathering into one comprehensive piece of legislation all the necessary provision with respect to child care and the status of children. It deals with such matters as the guardianship of children, custody orders, the adoption of children, the legitimation of children on the marriage of their parents, the property rights of illegitimate children, the powers of the Child Care Officer (a public officer whose post was created under the Ordinance), the fostering of children, and the making of various kinds of orders for the protection or the maintenance of children or for enforcing the payment of such maintenance. The Ordinance expressly lays down the principles, first, that a court, in deciding issues concerning the legal custody or the upbringing of a child or concerning the handling of a child's property or income, must regard the welfare of the child as "the first and paramount consideration" and, second, that it must not, in deciding such issues, give greater force to the claims, rights and authority of the father as compared with those of the mother, or vice versa.

667. The Child Care Ordinance 1996 does not replace previous legislation for the protection of children, e.g. from abuse by others or from harmful activities or occupations. That previous legislation (e.g. the children and Young Persons Ordinance 1965, the Juveniles Smoking Ordinance (Cap. 58 of the Revised Laws of St Helena) and the Education Ordinance 1989, all as amended from time to time continues in force and continues to be vigorously applied. Currently a Welfare of the Child Bill is in draft with September 2007 as the completion target:- (a) It was considered that the current legislation - the 1965 Children's and Young Person Ordinance and the 1996 Child Care Ordinance was not compatible with the convention on the Rights of the Child.

668. Children who are separated from their families are looked after in the Family Centre or by a suitable person appointed by the Magistrates Court. In either case, the child is also placed under the supervision of the Child Care Officer, appointed under the Child Care Ordinance 1996. The Family Centre has recently replaced the former Children's Home and is now located in a residential complex. It is less "institutionalised" than the Children's Home and it has a more inviting and homely atmosphere. It can accommodate up to eight children and is used periodically throughout the year as necessary. There is also a custom-built home, with seven beds, for physically or mentally disabled people. This is administered and run by the Public Health & Social Services and operated by dedicated nursing staff who also provide support for similar people in the community and respite care for those in need. In addition, disabled children and young persons may receive special help from the St Helena Disabled Persons Aid Society and support and assistance is also provided by the Public Health & Social Services and the Employment & Social Security Department.

### Article 11

669. St Helena's public finances have experienced steady expansion since the late 1990s. Public expenditure has grown from £10.2 million in 2001/02 to £12.3 million in 2005/06. The contribution of UK budgetary aid to total government expenditure has increased from £4.6 million in 2001/2 to £6.4 million in 2005/06. Given a declining population base between 2001/02 and 2005/06 per capita recurrent expenditure has increased by about 30 per cent.

	2001/02	2002/03	2003/04	2004/05	2005/06
Domestic revenue	5 572	5 734	5 794	5 481	6 652
Grant-in-aid	4 000	4 640	5 124	5 664	6 406
Contribution from reserves	638	334			
Revenue excl shipping/TC/Capital Fund	10 210	10 708	10 918	11 145	13 058
Contribution to Capital Fund				380	
Departmental expenditure, excl shipping/TC	10 173	10 640	11 372	11 503	12 310
Grant-in-aid (plus contribution from reserves) as a % of total revenue net of shipping and TC	45.4	46.5	46.9	50.8	49.1
Budget surplus/(deficit) net of shipping and TC plus contribution to CF in 2004/05	37	68	-454	22	748
Shipping subsidy (1)	2 030	1 302	2 366	2 463	2 434
Long-term technical cooperation (2)	2 840	2 414	2 609	2 332	3 042
Population	4 490	4 350	4 140	4 185	4 072
Recurrent expenditure per capita in £ (3)	2 266	2 446	2 747	2 749	3 023
Budgetary aid per capita in £ (4)	1 033	1 143	1 238	1 353	1 573

*Notes:*

(1) The shipping subsidy has been included in the SHG budget since 2004/05, but has been presented separately here to maintain the comparability of the data over time.

(2) Long-term technical co-operation was included for the first time in the SHG budget in 2003/04 under development fund estimates. In 2004/05, it was fully included under departmental expenditure, but in 2005/06, only part of the expenditure on TC, £392,000, was included in the SHG budget.

(3) Recurrent expenditure net of shipping and long-term TC.

(4) Budgetary aid includes grant-in-aid, but excludes shipping and long-term TC for each year.

670. The island is experiencing a sustained period of out-migration with the population steadily declining since the late 1980's. Since the last population census in 1998, the population has declined from 5,157 to about 3,927 persons as at July 2006. In the past emigration was

characterised by persons leaving to work on long-term contracts on Ascension Island and the Falkland Islands. Whilst this brought economic benefits in terms of reducing employment and increasing remittances it also imposes social burdens in terms of family separations. Since islanders were awarded UK citizenship in 2002, immigration to the UK has accelerated. An international airport is planned to open in 2002 and this should spur economic development and employment through tourism. Measures taken to set the framework for such economic development include the approval and implementation of the St Helena Tourism and Investment Policies in January 2007. An outsourcing programme is currently being designed and its implementation will be given priority. The Bank of St Helena was established in 2004 when lending facilities were transferred from the Government to the Bank. Out of total loan portfolio of £3 million, only ten per cent is classified as business lending. Other lending is typically for mortgages and other personal loans.

671. All current infrastructure projects are funded by development aid monies from three main sources, i.e. the United Kingdom, the European Union and UNDP. The funds so obtained are applied to areas of activity that will assist private sector development and thus both directly and indirectly enhance the prosperity and standard of living of the population of St Helena. Projects relating to the provision of drip irrigation to local farmers; the establishment of a youth service and the provision of infrastructure to assist waste disposal were concluded in 2006. Two projects funded by DFID are nearing completion. These are in the fields of Water Development and Community Care. Other aid donor funded activities now in implementation include Wharf Improvement (largely funded by the European Development Fund); Wastewater (Sewerage) disposal and Private Sector Development. Approval has just been received from DFID for procurement of three additional wind turbines, and it is hoped that a project for upgrading and extending the electricity network will be approved very early in 2007. An extensive project aimed at addressing St Helena's waste management needs is being developed.

672. The UNDP - funded project concerning the provision of services and aids to the elderly and disabled was completed early in 2006, and that relating to Retraining of the Long Term Unemployed ended in February 2007. The funding provided under this project enabled the Employment and Social Security Department to bring in two consultants to carry out assessments and design training programmes to support the staff of the department to deliver effective and sustainable training to return the unemployed back to work which has been successful to date, with 18 people being trained under the training and work experience scheme and now in full time employment. Two computer suites were purchased for the Job Shop which is soon to be set up.

673. Specifically as regards the right to adequate food, there is great emphasis on encouraging local food production in substitution of imports. All locally produced meats and vegetables are now provided by the private sector: the public sector has been able to withdraw completely from this field except that there is a government subsidy to farmers for water for irrigation. However, the need to import food from the United Kingdom and South Africa still remains. There is no problem with food distribution, and there are food shops in both urban and rural areas. The St Helena Fisheries Corporation, which is a government para-statal organisation, ensures the

provision of fish to all areas through the town market and mobile van sales. (The Corporation also processes and exports frozen fish that is in excess of local needs. The responsibility for disseminating the knowledge of the principles of nutrition to the whole community is discharged by the Department of Public Health and Social Services as part of its general responsibility for health promotion.

674. As regards adequate housing, house-building is increasing steadily, measures are still however being taken by Government to build new accommodation and to convert suitable existing government buildings. There are currently no cases of homelessness, and the waiting list (which at present stands at about 70) stems from situations of overcrowding rather than from homelessness. Loans for new construction, renovations and extensions are available from the Bank of St Helena to persons in full time employment, who are permitted to borrow up to three times their annual salary, subject to a maximum loan of £16,000. The interest charged is 8 per cent per annum. Government Landlord houses are generally rented to persons who are on low wages or who are unemployed.

675. With regard to the existence of laws affecting realisation of the right to housing the following legislation are in place:

- Land Planning & Development Control Ordinance Cap 66 and the Land Acquisition Ordinance Cap 67;
- Land Planning & Development Control Regulations;
- Race Relations Ordinance Cap 84;
- Immigrant Landholding (Restriction) Ordinance Cap 68;
- Registered Land Ordinance Cap 65 s135;
- Public Health Ordinance cap 49.

676. So far as the quality of housing is concerned, the 1998 census has shown that, out of the total number of households (1610) there are still a few homes that lack electricity principally because of their geographical location. Project funding will soon become available to address this issue. Standards in house building are closely controlled by the Building Ordinance 1966 and the Regulations made under it. The planning aspect of this system has recently been further developed by the Land Planning and Development Control Ordinance.

## **Article 12**

677. The responsibility for the health of the population of St Helena is vested in the Department of Public Health and Social Services of the St Helena Government. The Department's key objectives are to provide a well-managed, cost effective and efficient health and social care service; to give a high priority to preventative medical services; to provide an appropriate range of medical and social services to the public; and to strengthen environmental health services. The Chief Administrative Health and Social Services Officer manages the Department. Under the aegis of the Department, St Helena has a main hospital (the General Hospital) and seven

outpatient clinics; which are currently serviced by 4 doctors, including a surgeon, 2 anaesthetists, 1 dentist, 2 dental technicians, 2 dental surgery assistants, 1 dental hygienist, 102 nursing staff (including midwives, nurses, nursing assistants and student nurses), 1 physiotherapist, 1 assistant physiotherapist, 1 senior dispenser and 4 dispensers, and 11 health visitors. A visiting psychiatrist and psychologists spend six weeks on island each year and are available to provide support through telephone link if and when required. Medical care is not completely free but is heavily subsidised: There is a hospital admission fee of £3.70 per day; prescription fee of £1.20 per item; laboratory test fee of £2.50 per test; an operation fees which varies between £2.50 and £152.10. Also children under the age of 16 years and persons in receipt of social security benefits are exempt from paying these fees and as noted in paragraph 256 above ante-natal and post natal care are both free.

678. Expenditure on health and social services currently accounts for 17.5% of the St Helena Government's recurrent budget, compared with 11.75% fifteen years ago. The general state of health of the population of St Helena is assessed as reasonable and nutritional state remains satisfactory. There is some concern about life style diseases. There are no epidemic diseases but there are the usual childhood viruses which can be found in any community. There is a higher than usual incidence of non-insulin-dependent diabetes. Gonorrhoea is a rarity and there have been no cases of HIV/AIDS reported to date.

679. The latest statistics relating to life expectancy etc and infant mortality are given in paragraph 233 of the present report. All deliveries are planned to take place in the General Hospital under the supervision of a trained medical team. There is a free immunisation programme for children against tetanus, diphtheria, polio, measles, mumps, rubella, and TB. This programme which is virtually 100% effective conforms with United Kingdom guidelines and regularly updated. As noted in paragraph 268 above, free medical treatment, including hospital admissions and also free dental treatment are provided for all children under 16 years of age. Health programmes for all school children, including those in nursery school, include checks in respect to hygiene, hearing and vision and annual dental checks.

680. The whole population of St Helena has access to safe water supplies (88 per cent treated supply; 12 per cent untreated supply but with free water sterilisation made available) and also to adequate facilities for the disposal of human and other waste.

### **Articles 13 and 14**

681. The situation with respect to the matter dealt with in this article of the Covenant remains substantially as previously reported, but the following paragraphs give a general account of the current position and note some recent developments. The overall responsibility for educational matters in St. Helena is vested in the Education Department of the St. Helena Government. Both primary and secondary education is compulsory and free for all children between the ages of 5 and 15 years. There is also free nursery education for children between 3 and 5 years old. "Post-compulsory" education (i.e. for children between 15-plus years and 18-plus years old in both academic and vocational fields) is also free. There is a bus service for schoolchildren which is also provided free of charge.

682. St. Helena currently has two first schools (3-plus years to 7 years), 2 middle schools (7 plus years to 11 years), one all through primary school (3-plus years to 11 years), and one Community High school (11-plus years to 18-plus years). In addition to the academic curriculum, technical education is taught in the middle/ primary schools and is continued, together with other aspects of vocational education, in the high school and beyond. Adult and vocational education continues to be developed under the recently formed Adult and Vocational Education Service. (See para. 244.)

683. "Post-compulsory" schooling is regarded as part of the Youth Training Scheme, and students who undergo it receive similar allowances to those in youth training. At present, the courses that are offered to 15/16 yr olds are as follows:

- Compulsory courses;
- English Language, Mathematics and one Science subject (Either Co-ordinated Science: Double Award, Science: Single Award or O Level Agriculture. These are all taken at the United Kingdom General Certificate of Secondary Education (GCSE) level/ Ordinary Level;
- Optional courses;
- Arts and Design, Business Studies, Child Development, Design & Technology, English
- Literature, Food & Nutrition, Geography, Information Technology. These are all taken at the GCSE level. Information Technology (Cambridge International Diploma) is also offered;
- Textiles and Agriculture may be taken at the local Certificate of Vocational Studies level. The school anticipates that City and Guilds Vocationally Related Qualifications in Mechanics, Building Construction and Catering will come on line during the academic year 2007/8 as optional subjects. Also offered is the Accredited Scheme Development and Networking (ASDAN) scheme, widely used in the United Kingdom to accredit those areas of the curriculum which have not traditionally been accredited. Entry Level Certificates in English, Mathematics and Science offered by UK exam boards are available for those students who are not able to manage GCSE's in these areas.

684. Courses currently offered to 17/18-plus year olds are: English Language, English Literature, Mathematics, Biology, Physics, Chemistry, Environmental Management and Information Technology at Advanced Supplementary (AS) Level. Locally accredited vocational courses in Mechanics, Building Construction and Catering and Hotel Accommodation Services are offered. It is anticipated that these course will be internationally accredited during the academic year 2007/8.

685. In 2006/2007 education accounted for 12.66 per cent of the St. Helena Government's recurrent budget (compared with 11.0 per cent in 1988/89). In addition to recurrent budget, the Education Department is also supported by a DFID funded Education Support Programme valued at 2.5 million pounds spread over a 5 year period (October 2003 to September 2008). This programme is delivered through an SHG/DFID-agreed flexible programme under the

contracted services of a Support Service Provider, namely the Centre for International Development and Training (CIDT) based within the University of Wolverhampton and CLS Education Services.

686. So far the terms and conditions of employment of teachers are concerned, it can be reported that these continue to be substantially the same as those of other members of the public service. As regards their role and deployment, falling school rolls have depleted pupil teacher ratios even though teacher attrition remains high. At secondary level there is an acute shortage of specialist teaching skills particularly at GCSE and AS/A Level. The department is now responding by amalgamating the remaining 4 first and middle schools and carrying out extensive staffing and curriculum reviews throughout the system to enable more efficient and effective PTRs and teaching strategies. Over the next year primary PTRs are targeted at 24:1 with vertical grouping to be applied throughout all 3 primary schools. This will be carried out in phases with training and retraining for teachers already underway. Secondary provision is also being reviewed to take into account curriculum and organisational changes including the prospect of distance support especially for AS/A level provision to mitigate the problems of teacher skills shortage. Teachers from the UK are currently employed to cover key specialist areas where local skills are unavailable. Support is provided for disabled children - who are integrated in mainstream classes as far as possible - utilising Teacher Assistants. There is a local UK qualified Head of Learning Support and a Speech and Language teacher who has gained UK experience and a qualification, to assist teachers. One to one teaching is applied where necessary within the overall aim of inclusiveness to cater for those with profound learning difficulties. There continues to be an active Teachers Association, and its executive members are consulted about the deployment of teachers to the various schools. Association members debate education policy.

687. Teacher turnover has been acute for many years and as for other Government departments, the Education Department has continued to operate under this constraint exacerbated over recent years by the increase in offshore employment opportunities for St. Helenians which offer more attractive remuneration. The reforms currently underway to restructure and reorganise schooling as referred to above has the parallel aim of making efficiency gains, some of which can be directed towards an enhanced Scheme of Service and salary package for teachers which is competency based and supported by a comprehensive Continuous Professional Development and Training Programme.

### **Article 15**

688. Non-government organisations, with encouragement and assistance from the Government of St Helena, play an important role in the promotion of culture in St Helena. St Helena Government continues to subsidise the St Helena News Media Services, who is responsible for the production of a weekly newspaper and for radio broadcasting. In 2004 an independent Radio Station, Saint FM was established who also produces a weekly newspaper and provides radio broadcasting. Other bodies working to the same end include the St Helena Tourist Office, established in January 1998, which encourages the production of local crafts and more generally seeks to raise awareness of St. Helena's cultural heritage, and the St Helena Heritage Society, a voluntary body which has been functioning for some years.

689. As previously reported, it is the practice of the St Helena Government to give small annual grants to various local voluntary bodies which, inter alia, help to foster community spirit and awareness of a common cultural heritage. The bodies currently in receipt of such grants (and the amounts respectively awarded) are as follows:

-	Boy Scouts	£50.00
-	Girl Guides	£100.00
-	Duke of Edinburgh	£100.00
-	Get-Togethers	£100.00
-	Handicap Society	£1,500.00
-	Rifle Association	£300.00
-	Heritage Society	£500.00
-	RSPCA	£600.00
-	Dive Club	£100.00
-	Ladies Orchestra	£100.00
-	St Helena Young Musicians	£100.00
-	St Helena Day Celebrations	£100.00
-	Farmers Association	£100.00
-	Church Lads Brigade	£100.00
-	Miss St Helena Contest	£100.00

690. There are also various other voluntary organisations and religious groups which are instrumental in the development of local culture but which are not currently recipients of regular government grants. These include the Corona Society, the St Helena League of Friends, the Friendly and Benefits Societies, the Seventh Day Pathfinders and the Bahai Youth Group.

691. As previously reported, St Helena has a museum - its only one which was established by the St Helena Heritage Society. The Public Library remains the responsibility of the Education Department. It is situated in town but it also provides a mobile library service to rural areas. There are also community centres for which the Employment and Social Security Department is ultimately responsible but which are managed by members of the respective districts and which, together with privately owned clubs, provide suitable venues for cultural entertainment, fund-raising activities, etc. Though St Helena once had two cinemas, they closed some years ago (mainly as a result of the arrival of home video systems), but the high school has a stage and hall which can seat approximately 400 persons and most amateur theatrical and musical events are held there.

692. St Helena has no facilities for scientific research, but protection of the environment and the preservation of the natural heritage are recognised elements in the territory's Sustainable Development Plan. An Advisory Committee on the Environment has been established with the task of advising the St Helena Government, non-governmental organisations and the private sector on the environmental aspects of physical development projects, and an Environmental Coordinator is currently in post.

## CHAPTER 7. REPORT FROM THE TURKS AND CAICOS ISLANDS

### 1. Statistics

Population	33,202 (Turks and Caicos Islands - in 2006).
Number of men per 100 women	99 (Turks and Caicos Islands - in 2006).
Percentage of population under 15	21.9% (Turks and Caicos Islands - in 2005).
Percentage of population over 65	4.4% (Turks and Caicos Islands - in 2005).
Religion	Christian (Turks and Caicos Islands).
GDP <sup>15</sup>	£239 million (Turks and Caicos Islands - in 2005 (estimate)).
GDP per head <sup>16</sup>	£7,811 (Turks and Caicos Islands - in 2005).
Inflation	1.5% (Turks and Caicos Islands - in 2006).
Government Deficit/Surplus <sup>17</sup>	-\$313,000 (Turks and Caicos Islands - in 2005).
Government Debt <sup>18</sup>	£20 million (Turks and Caicos Islands - in 2005).
Employment rate	92% (Turks and Caicos Islands - in 2005).
Languages	English, Creole (Turks and Caicos Islands).
Life Expectancy	75 - M; 76.1 F (Turks and Caicos Islands - in 2001).
Infant Mortality - number of deaths of children aged under 1 year per 1,000 live births	3.1 (Turks and Caicos Islands - in 2005).

### 2. General political structure

#### General

693. The Territory of the Turks and Caicos Islands comprises 40 islands and cays, which lie 145 kilometres north of Haiti and the Dominican Republic and 925 km south-east of Miami, United States of America. Of these islands, only six are permanently inhabited: Grand Turk, where the administrative capital, Cockburn Town, is located; Salt Cay; South Caicos; Middle Caicos; North Caicos and Providenciales. In 2006, the total population of the Territory was estimated at 33,202. The indigenous Belonger population is estimated at 11,750, and non-Belongers 21,452. The latter comprises mostly immigrants from Haiti and the Dominican Republic, and American, Canadian, British and other European expatriate residents and workers. Providenciales, the business and tourist centre, is the most populous island, followed by the administrative capital of Grand Turk. The majority of the population is of African descent, the rest being of mixed or European origin. English is the main language, with some Creole spoken by Haitian immigrants. The religion is Christianity; the Anglican Communion predominates.

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<sup>15</sup> Expressed in GBP £.

<sup>16</sup> Expressed in GBP £.

<sup>17</sup> Expressed in GBP £.

<sup>18</sup> Expressed in GBP £.

694. The Turks and Caicos Islands were discovered by the Spanish in 1512. In 1678, Bermudans established a solar salt industry. The Islands were settled by royalist sympathisers from the United States after the War of Independence; they established cotton plantations, employing slaves. Between 1833 and 1843, slavery was abolished and the plantation owners left the Islands, leaving their former slaves in possession. From 1874 to 1959, the Turks and Caicos Islands were governed by Britain as a dependency of Jamaica. The Islands became a separate colony of the UK in 1962, under the control of the Bahamas Islands, but with Bahamian independence in 1973, the Turks and Caicos were placed under a British Governor in Grand Turk.

695. The Turks and Caicos Islands is an Overseas Territory of the UK, with a Governor and a ministerial system of government. Under the new Constitution, adopted on 9 August 2006, there continues to be a Governor appointed by The Queen, who is Her Majesty's Representative in the Islands. But there is now a Deputy Governor, who must be a Belonger, appointed by the Governor. Executive Government now consists of a Cabinet, in place of an Executive Council; and a Premier, in place of a Chief Minister. Cabinet consists of the Governor as Chairman, the Premier, six other Ministers, and the Attorney General. The Governor remains responsible for external affairs, defence, internal security including the Police Force, and some public service matters, including the regulation of international financial services, consulting Cabinet as necessary. An Advisory National Security Council, chaired by the Governor, has been established to make recommendations on national security issues. Ministers continue to have responsibility outside of those areas reserved for the Governor. The House of Assembly has replaced the Legislative Council, and now consists of a Speaker, 15 elected members (2 more than under the old Constitution), 4 appointed members and the Attorney General. The right to stand for election is now limited to TCI Belongers; and the right to vote confined to Belongers.

696. The legal system, based on English Common Law, includes a Magistrates' Court, a Supreme Court, and a Court of Appeal, with ultimate appeals to the Privy Council. Under the provisions of the new Constitution, the Governor continues to appoint judges and magistrates, but on the advice of a newly established Judicial Service Commission. The existing Attorney General and Chief Justice were recruited from the UK.

697. There are two main political parties in the Territory: the People's Democratic Movement (PDM) and the Progressive National Party (PNP), formed in 1975 and 1980 respectively. The PNP, led by Premier Michael Misick, has been in office since August 2003. Premier Michael Misick and the PNP were re-elected to Government in February 2007 with an increased majority.

### **3. General legal framework within which human rights are protected**

698. The Supreme Court has final judicial jurisdiction over human rights. The Labour Tribunal presides over labour disputes, with powers equal to those of the Supreme Court. Legislation has been drawn up to establish a Human Rights Commission in the Territory, and a chair-designate appointed.

699. The new TCI Constitution (August 2006) sets out the fundamental rights and freedoms of the individual, namely the right to life, liberty, security of the person and the protection of the

law; freedom of conscience, of expression and of assembly and association; and protection for his or her private and family life, the privacy of his or her home and other property and from deprivation of property save in the public interest and on payment of fair compensation.

700. The following international treaties have been extended to the TCI: the EU Convention on Human Rights, UN Convention on Civil and Political Rights, the UN Convention of the Rights of the Child, the UN Convention on the Elimination of Discrimination Against Women.

#### **4. Information and publicity concerning the Covenant on Economic, Social and Cultural Rights and the reports to the Committee**

701. Public awareness campaigns have been carried out to cover the range of UN HR Conventions, particularly on the Rights of the Child and the Elimination of Discrimination against Women. These campaigns take the form of pamphlets, radio programmes, public meetings and seminars/workshops for stakeholders, namely social development, teachers, parents, the police, and students. The chair-designate of the new HR Commission has a public awareness campaign planned for August 2007 on all aspects of the work of the new Commission. Copies of the UN Conventions are placed in public libraries across the TCI.

#### **5. Response to the concluding observations**

##### **Paragraph 25**

702. A Gender Affairs Unit has been established, headed by the Minister for Health and Human Resources. Cabinet have agreed to establish a Human Rights Commission. Legislation has been drawn up, and a chair-designate appointed. TCI revived the National Monitoring Committee on the Rights of the Child in 2006. TCI has participated in a project with the Organisation of Eastern Caribbean States (OECS) to reform the law relating to Domestic Violence and the Family. Six bills have been drafted covering the family court, domestic violence, protection of children, custody of children, adoption, and juvenile justice.

##### **Paragraph 30**

703. Human rights training is available within schools, police, judiciary and public servants. Plans are underway for a public awareness campaign, with a view to increasing public understanding of what human rights entail and about the role of the Human Rights Commission.

##### **Paragraph 33**

705. The minimum wage is US\$5 an hour, and is generally extended to all workers. There is no standard age of majority in the TCI. This is being harmonised in the new Family Law Bills. Currently, anyone over the age of 16 may take employment. Anyone under 16 must have parental or guardian consent.

##### **Paragraph 35**

705. As above, TCI has participated in a project with the OECS to reform the law relating to domestic violence. It has running training courses for police officers, and held workshops country-wide to combat domestic violence.

**Paragraph 36**

706. Domestic law still tolerates corporal punishment in schools. However, in practice, it is not allowed in schools or other juvenile institutions. There is no domestic law to prohibit physical punishment within the family. 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, which do not permit physical punishment.

**Paragraph 40**

707. There is common access to retroviral drugs to combat HIV.

**Paragraph 41**

708. All children between the ages of 5 - 16 have access to free education. The Department for Social Development assists parents with paying school fees for early childhood education. There are no universities in the TCI. But the Government funds a generous scholarship programme for university students to study overseas (some US\$15 million per annum).

**6. Progress since the Fourth Report on each of the Articles in parts I, II and III of the Covenant**

**Article 1 - Self-determination**

709. In September 2002, the Constitutional Review Body presented the constitutional modernisation review report which, inter alia, reflected public concerns and made recommendations related to limiting the powers of the Governor and creating a Deputy Governor position, as well as other changes regarding the executive, legislation and judicial organs of the Territory. The new Constitution came into effect in August 2006.

710. The UK maintains the position that a Constitution encompassing a full measure of internal self-government is a pre-independence constitution. The policy of the UK is clear: Territories can exercise that choice, where it is an option, and as long as it is the clearly expressed wish of the people of the Territory. While it maintains a relationship with the Territory, however, the UK will have to retain sufficient powers to protect its overall responsibility for the Territory concerned.

**Article 3 - Gender equality**

711. The principal TCI legislation is the Sex Disqualification (Removal) Ordinance (Cap 97) of 1950.

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