

**QUESTION TO BE ASKED OF THE PRESIDENT OF THE POLICY AND RESOURCES
COMMITTEE ON TUESDAY, 18th FEBRUARY 2003 BY THE DEPUTY OF ST. MARTIN**

Question

- (a) Being mindful that the United Nations Conventions on the Rights of the Child and for the Elimination of Discrimination Against Women have been ratified by and for the UK for many years, what plans are there to ensure that these important Conventions are ratified for Jersey in the near future?
- (b) Is there any constitutional or other barrier which prevents the incorporation of the UN Covenant on Economic, Social and Cultural Rights into the domestic law of Jersey and are there any plans so to do?
- (c) Is Jersey required to prepare a Human Rights Plan of Action as recommended under the 1993 Vienna Declaration and Programme of Action and if so, what progress has been made with its preparation?

Answer

United Nations Conventions on the Rights of the Child

- (a) In 1994, the Insular Authorities were asked by the United Kingdom Government whether its ratification of the Convention should be extended to Jersey. The response given was that although Jersey confirmed that it did wish for this to happen, it was recognised that certain deficiencies in the Island's domestic laws needed to be addressed first, in order that the Island could meet obligations under the Convention.

Since then, the majority of those legal deficiencies have been corrected and I am advised that the only remaining substantive issue relates to Article 32 of the Convention which covers - "the right of children to be protected from economic exploitation and from performing work that is likely to be hazardous or to interfere with a child's education, or to be harmful to a child's health or physical, mental, spiritual, moral or social development".

Members will recall that, following an unsuccessful attempt by a former Education Committee in 1994, in May 2001 the Health and Social Services Committee, as previously constituted, made an Order entitled 'Employment of Children (General Provisions)(Jersey) Order 2001'. Members may also recall that following expressions of concerns by States members and other interested parties, that Committee agreed to revoke that Order in July 2001, in order to allow time for further consultation and to obtain further legal advice. To date that is where the matter rests.

However, I confirm that as soon as the child employment issues are resolved, and of course as long as there are no further legal impediments uncovered, the Policy and Resources Committee will consider requesting the United Kingdom to ratify the United Nations Convention on the Rights of the Child on Jersey's behalf.

United Nations Convention on the Elimination of Discrimination against Women

In 1998, the Policy and Resources Committee of the day, published R.C.30/1998 in which it recommended that Jersey should not join in Her Majesty's Government's ratification of the United Nations Convention on the Elimination of all forms of Discrimination against Women. In that report the Committee advised that:

- (i) it was in agreement with the findings of a group of interested persons, brought together by the then Deputy Imogen Nicholls of Grouville and which included Senator Wendy Kinnard, representatives of Soroptomist International, Whitley 90, the Jersey Women's Refuge, a journalist, a local business woman and a local lawyer; and,
- (ii) had concluded that the Convention should not be adopted wholesale, but that a formal process should be initiated in consultation with the relevant Committees of the States for promoting and progressing of

various matters covered by the Convention that are of particular relevance for the Island.

Since 1998, some success has been achieved in relation to women's rights, through the development of particular policies to provide support to women in work and on child care issues. It is also true to say that no issues of substance have been brought to the attention of the previous two Policy and Resources Committees that would have led them to conclude that that earlier decision was in any way flawed. However, given the passage of time and the fact that the world has, in many ways, moved on, I suggest it is time for this matter to be looked at again and I will therefore be raising it with the Policy and Resources Committee in the near future.

- (b) In following the United Kingdom Government's lead on this, the Policy and Resources Committee presently has no plans to promote legislation which would have the effect of incorporating the U.N. Covenant on Economic, Social and Cultural Rights fully into domestic law. However, just like the United Kingdom, the content of the Covenant is borne in mind when relevant policy and legislative issues are being considered and, in taking executive decisions, the relevant Committees will also want to act consistently with the Covenant.
- (c) Given the particular phrasing of the question, the Policy and Resources Department has consulted with the Lord Chancellor's Department. The Lord Chancellor's Department has, in turn, consulted with the Foreign and Commonwealth Office which has confirmed that this Declaration does not place any obligation on member states as it is not a treaty or convention and is not registered on the FCO treaty database. It appears to be nothing more than a declaration made following the world conference on human rights in Vienna in 1993.