



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the fifth periodic report of New Zealand\*

#### I. Introduction

1. The Committee considered the fifth periodic report of New Zealand (CRC/C/NZL/5) at its 2138th and 2139th meetings (see CRC/C/SR.2138 and 2139), held on 15 and 16 September 2016, and adopted the present concluding observations at its 2160th meeting, held on 30 September 2016.

2. The Committee welcomes the submission of the fifth periodic report of the State party and the written replies to the list of issues (CRC/C/NZL/Q/5/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the progress achieved by the State party in various areas, including the ratification in 2011 of the Optional Protocol on the sale of children, child prostitution and child pornography and the adoption in 2014 of the Vulnerable Children's Act and other institutional and policy measures related to children's rights since its last review. It also welcomes the significant progress in reducing child mortality.

#### III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all rights under the Convention and emphasizes the importance of all recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the following recommendations that require the adoption of urgent measures: violence, abuse and neglect (para. 23); children deprived of a family

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\* Adopted by the Committee at its seventy-third session (13-30 September 2016).



environment (para. 28); standard of living (para. 36); children belonging to minority or indigenous groups (para. 42); child labour (para. 44); and juvenile justice (para. 45).

## **A. General measures of implementation (arts. 4, 42 and 44 (6))**

### **Reservations**

5. The Committee reiterates its previous recommendations (CRC/C/NZL/CO/3-4, para. 9) and urges the State party to:

(a) Consider withdrawing its general reservation and its reservations to articles 32 (2) and 37 (c);

(b) Consider extending the application of the Convention to the territory of Tokelau.

### **Legislation**

6. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 11) and urges the State party to bring domestic legislation relating to children into compliance with the Convention. The Committee recommends that the State party consider the adoption of a comprehensive children's code in compliance with all the provisions of the Convention and ensure that any new legislation, including the recent and planned amendments to the Children, Young Persons and Their Families Act (1989), is consistent with the provisions and principles of the Convention.

### **Comprehensive policy and strategy**

7. Recalling its previous recommendation (CRC/C/NZL/CO/3-4, para. 15), the Committee recommends that the State party:

(a) Adopt a comprehensive policy and strategy for the implementation of the Convention and its first two Optional Protocols. They should be developed in cooperation with the public and private sectors involved in the promotion and protection of children's rights, in consultation with children, and based on a child-rights approach. Such a policy should encompass all children in the State party and all areas covered by the Convention; be supported by sufficient human, technical and financial resources; include clear and adequate budgetary allocations and a time frame; and incorporate follow-up and monitoring mechanisms;

(b) Consider a different name for the proposed Ministry for Vulnerable Children, and avoid the categorization of children, in law and policy, which may lead to stigmatization;

(c) Finalize and implement the child impact assessment: best practice guideline, and make its use obligatory, including during the allocation of public resources.

### **Coordination**

8. While noting the establishment of the Social Sector Board Deputy Chief Executives as the coordinating mechanism for the implementation of the Convention and its collaboration with the Convention Monitoring Group, the Committee recommends that the State party ensure it is provided with the human, technical and financial resources necessary for its effective operation and sufficient authority to coordinate all activities related to the implementation of the Convention at the cross-sectoral, national, regional and local levels.

### Allocation of resources

9. In the light of its general comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4), and recalling its previous recommendation (CRC/C/NZL/CO/3-4, para. 17), the Committee urges the State party:

(a) To adopt a child-rights approach in the elaboration of the State budget by implementing a tracking system covering all child-related expenditures. The State party should also use this tracking system for impact assessments on how investments in any sector may serve the best interests of the child, ensuring that the different impact of such investment on girls and boys is measured;

(b) To ensure transparent and participatory budgeting through public dialogue, including with children, and for proper accountability of authorities.

### Data collection

10. In the light of its general comment No. 5 (2003) on general measures of implementation, the Committee recommends that the State party:

(a) Develop a comprehensive mechanism for data collection and an information system on all areas of the Convention. The data should be disaggregated by age, sex, disability, geographic location, ethnic origin, nationality and socioeconomic background, to facilitate analysis on the situation of all children, and particularly Maori and Pasifika children, children in care, children with disabilities, children living in poverty, refugee, asylum-seeking and migrant children and children in other situations of vulnerability;

(b) Ensure that the data and indicators are shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;

(c) Take into account the conceptual and methodological framework set out in the report of the Office of the United Nations High Commissioner for Human Rights entitled *Human Rights Indicators: A Guide to Measurement and Implementation*<sup>1</sup> when defining, collecting and disseminating statistical information.

### Independent monitoring

11. In the light of its general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party:

(a) Ensure that the Children's Commissioner has the adequate human, technical and financial resources to advance and monitor the application of the Convention, its two Optional Protocols, and its mandate as a national preventive mechanism in relation to children in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and to receive, investigate and address complaints from children;

(b) Consider further strengthening the independence of the Office of the Children's Commissioner, including in the provision of its budget.

### Dissemination, awareness-raising and training

12. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, paras. 19 and 21) and recommends that the State party:

<sup>1</sup> Available from [www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf).

(a) Strengthen its currently limited awareness-raising programmes, campaigns and dissemination activities, including through increased dedicated awareness-raising funding to the Office of the Children's Commissioner, in order to ensure that the provisions of the Convention are widely known by the general public, including parents, caregivers, teachers, youth workers and other professionals working with children, and children themselves.

(b) Further strengthen systematic training on their responsibilities under the Convention for all professional groups working for and with children, including all law enforcement officials, teachers, health personnel, social workers and personnel of childcare institutions, and State sector and local government officials.

#### **Children's rights and the business sector**

13. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 23) and, in the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, recommends that the State party:

(a) Establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights;

(b) Ensure that the provision of child-related essential services by private enterprises is in compliance with the provisions of the Convention;

(c) Ensure that the Trans Pacific Partnership trade and investment treaty is in compliance with the provisions of the Convention and that its ratification is preceded by consultations with civil society and children to ensure that the best interests of the child are given due consideration;

(d) Adopt corporate social responsibility parameters, including child rights due diligence, for the operations at home and abroad of New Zealand corporations and other businesses subject to the jurisdiction of the State party in line with, *inter alia*, the Guiding Principles on Business and Human Rights.

### **B. Definition of the child (art. 1)**

14. The Committee recommends that the State party take all measures necessary to address inconsistencies in national legislation concerning the definition of the child, including by defining the minimum age of marriage at 18 years for both girls and boys and extending the scope of the Children, Young Persons and Their Families Act 1989 to cover all persons under the age of 18.

### **C. General principles (arts. 2, 3, 6 and 12)**

#### **Non-discrimination**

15. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 25) and recommends that the State party ensure full protection against discrimination on any ground, including by:

(a) Taking urgent measures to address disparities in access to education, health services and a minimum standard of living by Maori and Pasifika children and their families;

(b) Strengthening its measures to combat negative attitudes among the public and other preventive activities against discrimination and, if necessary, taking affirmative action for the benefit of children in vulnerable situations, such as Maori and Pasifika children, children belonging to ethnic minorities, refugee children, migrant children, children with disabilities, lesbian, bisexual, gay, transgender and intersex children and children living with persons from those groups;

(c) Taking all measures necessary to ensure that all cases of discrimination against children are addressed effectively, including with disciplinary, administrative or — if necessary — penal sanctions.

#### **Best interests of the child**

16. In the light of its general comment No. 14 (2013) on the right of the child to have her or his best interests taken as a primary consideration, the Committee recommends that the State party amend the Family Dispute Resolution Act 2013 to include an explicit requirement to comply with that obligation. It also recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions, in particular with regard to family law, social security legislation, children in care (particularly Maori children), sentencing of parents and in the refugee determination process. The State party is encouraged to develop procedures and criteria to provide guidance to all relevant professionals for determining the best interests of the child in every area and for giving it due weight as a primary consideration.

#### **Right to life, survival and development**

17. The Committee recommends that the State party adopt all the measures necessary to protect children from non-accidental injuries and to prevent, identify and address the root causes of youth suicide, with special attention to Maori children.

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

18. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 27) and, in the light of its general comment No. 12 (2009) on the right of the child to be heard, recommends that the State party:

(a) Amend its legislation, including the Family Dispute Resolution Act 2013, to ensure the right of the child to be heard in cases affecting him or her;

(b) Develop toolkits for public consultation on national policy development to standardize such consultation at a high level of inclusiveness and participation, including consulting with children on issues that affect them.

### **D. Civil rights and freedoms (arts. 7, 8, and 13-17)**

#### **Right to identity**

19. While appreciating the State party's efforts to preserve Maori identity, including through language and television programmes, the Committee is concerned that those efforts remain insufficient and recommends that the State party:

(a) Intensify efforts to promote and foster Maori language, culture and history in education and increase enrolment in Maori language classes;

(b) Ensure that Maori children adopted by non-Maori parents have access to information about their cultural identity;

(c) Ensure that all government agencies developing legislation and policies affecting children take into account the collective dimension of Maori cultural identity and the importance of their extended family (*whanau*) for Maori children's identity.

#### **Right to privacy**

20. The Committee notes the adoption of the Approved Information Sharing Agreement for Improving Public Services for Vulnerable Children in 2015, and the State party's intention to use predictive risk modelling in the child protection system, and recommends that the State party take all measures necessary to fully protect the right of the child to privacy, including by:

(a) Ensuring that any legislation enabling the collection, storage and sharing of personal information about children and their families include an explicit requirement to take into consideration the best interests of the child;

(b) Ensuring that the Privacy, Human Rights and Ethics framework governing predictive risk modelling takes in consideration the potentially discriminatory impacts of this practice, is made public and is referenced in all relevant legislation;

(c) Undertaking a child-rights impact assessment of the implementation of surveillance for law enforcement and intelligence gathering purposes, with particular attention to eliminate potentially discriminatory practices based on ethnicity.

#### **Access to appropriate information**

21. While welcoming the State party's efforts to improve access to the Internet in schools and the development of legislation and resources for children's online safety, including the Harmful Digital Communications Act 2015 and the NetSafe Kit for schools, the Committee recommends that the State party:

(a) Expand access to the Internet and information to children living in rural areas;

(b) Ensure that children aged 14 to 17 falling outside the definition of "children" under the Broadcasting Standards Authority Television Code and the Advertising Standards Authority Code for Advertising for Children are adequately protected from information and material harmful to their well-being.

### **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

#### **Violence, abuse and neglect**

22. While welcoming the State party's multiple efforts to address child abuse and neglect, the Committee remains seriously concerned about:

(a) The incidents of violence, which can amount to torture or cruel, inhuman or degrading treatment of children in State care, including the use of restraints and deprivation of liberty in the form of secure care;

(b) The difficulties faced by child victims of abuse and neglect in State care to seek redress, including inadequate knowledge among children about complaints mechanisms and the insufficient support provided to child victims who report incidents of abuse;

(c) The continuing prevalence of physical and psychological abuse and neglect, especially among Maori and Pasifika children and children with disabilities, and the lack of a comprehensive strategy against abuse and neglect to encompass all children in all settings;

(d) The enduring unavailability of comprehensive data on child abuse in all settings, including families, schools, and institutional care;

(e) The insufficient measures to assess the Vulnerable Children's Plan, the Violence Intervention Programme and the National Child Protection Alert System in combating child abuse and neglect;

(f) The insufficient resources available to front-line services, such as the Children's Teams.

**23. In the light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and taking note of target 16.2 of the Sustainable Development Goals on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, and recalling its previous recommendation (CRC/C/NZL/CO/3-4, para. 35), the Committee urges the State party:**

**(a) To take measures promptly to eradicate the use of violence and abuse of children in State care, including in the form of restraints and detention, and ensure that all professionals and staff working with and for children are provided with the necessary training and supervision and are subjected to the necessary background checks;**

**(b) To investigate promptly incidents of violence and abuse of children in State care, prosecute suspects and duly sanction perpetrators and ensure that child victims have access to child-friendly reporting channels, physical and psychological rehabilitation and health services, including mental health services;**

**(c) To develop a comprehensive strategy to combat abuse and neglect encompassing all children in all settings, with particular attention to Maori and Pasifika children and children with disabilities;**

**(d) To establish a national database on all cases of violence against children in families, schools and institutional care and undertake a comprehensive assessment of the extent, causes and nature of such violence;**

**(e) To regularly monitor and analyse the effectiveness of the Vulnerable Children's Plan, the Violence Intervention Programme and the National Child Protection Alert System and other policies and programmes against child abuse and neglect;**

**(f) To allocate sufficient human, technical and financial resources to Children's Teams and other front-line services to adequately respond to reported cases of child abuse;**

**(g) To further strengthen awareness-raising and education programmes, including campaigns, to prevent and combat child abuse, with the involvement of children, with particular attention to Maori and Pasifika children and children with disabilities.**

#### **Sexual exploitation and abuse**

**24. While welcoming the development of a child sex offender register, the Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 52), draws attention to target 5.2 of the Sustainable Development Goals on eliminating all**

forms of violence against all women and girls in the public and private sphere, including sexual and other types of exploitation, and recommends that the State party:

- (a) Intensify its efforts to combat sexual abuse of children and establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse, with particular attention to ethnicity, gender and disability;
- (b) Establish a comprehensive data system on incidents of sexual abuse of children in all settings, including in the family, in schools and in care institutions, to develop appropriate institutional responses;
- (c) Conduct awareness-raising activities to prevent sexual abuse, including incest, combat the stigmatization of victims of such abuse and ensure accessible, confidential, child-friendly and effective reporting channels for such violations.

#### **Harmful practices**

25. The Committee recommends that the State party:

- (a) Develop awareness-raising campaigns and programmes targeting households, local authorities, religious leaders and judges and prosecutors, on the harmful effects of early marriage on the physical and mental health and well-being of children, especially girls;
- (b) Develop and implement a child rights-based health-care protocol for intersex children, setting the procedures and steps to be followed by health teams, ensuring that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guaranteeing the rights of children to bodily integrity, autonomy and self-determination and provide families with intersex children with adequate counselling and support;
- (c) Promptly investigate incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions to provide redress to victims of such treatment, including adequate compensation;
- (d) Educate and train medical and psychological professionals on the range of biological and physical sexual diversity and on the consequences of unnecessary surgical and other medical interventions on intersex children;
- (e) Extend free access to surgical interventions and medical treatment related to their intersex condition to intersex children between the age of 16 and 18.

#### **F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

##### **Family environment**

26. The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 32) and recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities with timely responses at the local level, including services to parents who need counselling in child-rearing, services for the treatment of alcohol or drug-related problems and, in the case of Maori and Pasifika populations, culturally appropriate services to enable them to fulfil their parental role.



### Children deprived of a family environment

27. The Committee welcomes the reports of the Children's Commissioner on the State of Care 2015 and 2016 and of the Modernizing Child, Youth and Family Expert Panel, and the State party's commitment to respond to their recommendations. The Committee is however seriously concerned about:

(a) Deficiencies in the State party's care system, including lack of consideration for the best interests of the child and for the views of the child — regarding decisions directly affecting her or him; and lack of clarity regarding a child-centred approach leading to inconsistent practices towards children, in particular Maori children and children with disabilities;

(b) Enduring inadequate cultural capability of the State care system, despite recent efforts, which has a disproportionate impact on Maori families and children, who make up over half of the children in State care;

(c) Inadequate resources allocated to care placements, including insufficient case oversight and training for care personnel, and to caregivers, which hinders their recruitment, and hurdles faced by permanent caregivers to obtain special guardianship, which may negatively affect the child's well-being and be contrary to his or her best interests;

(d) Insufficient data on children's outcomes, including regarding education, health and well-being, while in care and after they leave;

(e) The State party's intent to outsource some care services to private providers in the absence of appropriate accountability frameworks.

28. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee urges the State party:**

(a) **When reforming the care system, to ensure that the best interests of the child are taken into account as a primary consideration in every case and that the child is heard in all matters affecting her or him; ensure a common understanding of a child-centred approach across the care system; and regularly monitor the implementation of the reform and its impact on children's outcomes, with particular attention to Maori children and children with disabilities;**

(b) **To strengthen its efforts to improve the cultural capability of care and protection system and its engagement with Maori communities, the *whanau* (extended family), *hapū* (sub-tribal groupings) and *iwi* (tribal groups), including by implementing the recommendations of the Children's Commissioner's 2015 report entitled "State of Care",<sup>2</sup> with a view to addressing the overrepresentation of Maori children in State care;**

(c) **To allocate adequate human, technical and financial resources to care services, in particular care placement, case oversight and caregivers and ensure that the child's best interests are taken into account as a primary consideration in guardianship decisions;**

(d) **To improve the data collection on children's outcomes, including regarding education, health and well-being, while they are in care and after they leave care, to adopt evidence-based approaches to improving the care and protection system;**

(e) **To ensure that any outsourcing to private care service providers is closely monitored for compliance with the provisions of the Convention;**

<sup>2</sup> Available from [www.occ.org.nz/assets/Publications/OCC-State-of-Care-2016.pdf](http://www.occ.org.nz/assets/Publications/OCC-State-of-Care-2016.pdf).

(f) To ensure that the reform of the Child, Youth and Family Department of the Ministry of Social Development is supported by adequate human, technical, financial and organizational resources so that children's rights are fully respected during the transition to the new operating model and afterwards.

#### **Adoption**

29. The Committee welcomes the New Zealand Human Rights Review Tribunal decision of March 2016 declaring the Adoption Act 1955 and the Adult Adoption Information Act 1985 discriminatory on the grounds of age, sex, marital status and disability. Recalling its previous recommendations (CRC/C/15/Add.216, para. 34 and CRC/C/NZL/CO/3-4, para. 34), the Committee recommends that the State party:

- (a) Promptly review the adoption legislation, on hold since before 2003, to align it with the Convention;
- (b) Ensure that the best interests of the child are a paramount consideration in all adoption cases;
- (c) Ensure in practice that the child's views are heard and consent is required, in accordance with the child's evolving capacities in adoption processes;
- (d) Ensure the right of adopted children to access information about their biological parents, their culture and identity.

#### **G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)**

##### **Children with disabilities**

30. While welcoming the measures undertaken by the State party, including the Child Disability Allowance, Wraparound Intensive Individualized Support and the Family Whānau Sign Language Facilitator service, in the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:

- (a) Adopt a comprehensive, child rights and participatory approach to the fulfilment of the rights of children with disabilities and ensure that the Disability Action Plan takes into account the needs of those children;
- (b) Strengthen its efforts to combat the marginalization and discrimination of children with disabilities in their access to health, education, care and protection services, with particular attention to Maori children with disabilities, children with disabilities living in poverty and children with multiple disabilities, and undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of and prejudice against children with disabilities and promote a positive image of these children;
- (c) Set up comprehensive measures to develop inclusive education and ensure that inclusive education is given priority over the placement of children in separated institutions and classes and that families of children with disabilities are aware of the services to which they are entitled;
- (d) Implement anti-bullying programmes to prevent the occurrence of bullying in schools;

(e) Undertake an assessment of district inspectors' investigations into violations of the rights of children with disabilities placed in compulsory residential care under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003;

(f) Adopt legislation prohibiting the sterilization of children with disabilities without their free, prior and informed consent and ensure that children with severe disabilities are provided with independent advocacy in decisions affecting them;

(g) Establish a system for the regular and systematic collection of comprehensive and disaggregated data on children with disabilities, necessary for putting in place appropriate policies and programmes.

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

31. Recalling its previous recommendation (CRC/C/NZL/CO/3-4, para. 38), and in the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and taking note of target 3.2 of the Sustainable Development Goals to end preventable deaths of newborns and children under 5 years of age, the Committee recommends that the State party:

(a) Promptly take the necessary measures to ensure adequate access to health services to all children, including age-appropriate mental health services, with particular attention to Maori and Pasifika children;

(b) Take immediate action to reduce the prevalence of preventable and infectious diseases, including by improving housing conditions, especially for Maori, Pasifika and children living in poverty;

(c) Take all appropriate legal and educational measures aimed at adults, to stop children being exposed to second-hand smoke.

#### **Adolescent health**

32. In the light of its general comment No. 4 (2003) on adolescent health, the Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 42) and recommends that the State party strengthen its efforts to provide adolescents with appropriate reproductive health services, including reproductive health education, in school and to promote a healthy lifestyle for adolescents.

#### **Breastfeeding**

33. The Committee recommends that the State party increase the number of infants up to 6 months of age that are exclusively breastfed, with a particular focus on raising the awareness of the Maori population, particularly mothers, about the benefits of exclusive breastfeeding.

#### **Impact of climate change on the rights of the child**

34. The Committee is concerned about the harmful impact of climate change on children's health, especially for Maori and Pasifika children and children living in low-income settings. The Committee draws attention to target 13.5 of the Sustainable Development Goals on promoting mechanisms for raising capacity for effective climate change-related planning and management and recommends that the State party:

(a) Ensure that the special vulnerabilities and needs of children, and their views, are taken into account in developing policies or programmes addressing the issues of climate change and disaster risk management, with special attention to

groups of children most likely to be affected by climate change, including Maori and Pasifika children and children living in low-income settings;

(b) **Routinely undertake health impact assessments, with particular attention to children, to inform legislation and policies related to climate change.**

#### **Standard of living**

35. While welcoming the public debate and attention given to the prevalence of child poverty in the State party, including through the appointment of an Expert Advisory Group on Solutions to Child Poverty, the Committee is deeply concerned about the enduring high prevalence of poverty among children, and the effect of deprivation on children's right to an adequate standard of living and access to adequate housing, with its negative impact on health, survival and development and education. It is particularly concerned about the continuing disparities faced by Maori and Pasifika children with regard to the enjoyment of these rights. It is further concerned about the impact of recent welfare and benefit sanctions reforms on children living in benefit-dependent households.

36. **The Committee draws attention to target 1.3 of the Sustainable Development Goals, on implementing nationally appropriate social protection systems and measures for all, and target 11.1, to ensure access to adequate, safe and affordable housing for all, and urges the State party:**

(a) **To introduce a systemic approach to addressing child poverty, in particular Maori and Pasifika children, including establishing a national definition of poverty;**

(b) **To increase substantially the allocations necessary to directly and comprehensively tackle child poverty and ensure that budgetary lines for children in disadvantaged, vulnerable situations and situations of poverty that may require affirmative social measures are adequate and protected even in situations of economic crisis, natural disasters or other emergencies;**

(c) **To strengthen its social protection mechanisms and intensify its efforts to provide safe and adequate housing to all children;**

(d) **To consider holding targeted consultations with families, children and children's rights civil society organizations on the issue of child poverty, with a view to strengthening the strategies and measures for fulfilling children's rights in poverty reduction strategies.**

## **H. Education, leisure and cultural activities (arts. 28-31)**

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

37. Taking note of target 4.a of the Sustainable Development Goals on building and upgrading education facilities that are child, disability and gender sensitive and providing safe, non-violent, inclusive and effective learning environments for all, and recalling its previous recommendation (CRC/C/NZL/CO/3-4, para. 46), the Committee recommends that the State party:

(a) **Ensure that the ongoing review of the Education Act 1989 complies with the provisions and principles of the Convention and is made in consultation with children;**

(b) **Ensure that the budget allocated to education is adequate, sufficient and protected in case of economic crisis or other financial factors;**

(c) Develop and implement an adequate normative framework for alternative education in line with the Convention and the Committee's general comment No. 1 (2001) on the aims of education, and undertake regular quality assessments of alternative educational arrangements and institutions, including the newly established partnership schools;

(d) Take measures to end the overrepresentation of children with disabilities, Maori and Pasifika children in disciplinary processes, including by providing adequate social and psychosocial support to children and only use the disciplinary measure of permanent or temporary exclusion as a means of last resort.

#### **Early childhood development**

38. Taking note of target 4.2 of the Sustainable Development Goals on ensuring that all girls and boys have access to quality early childhood development, care and pre-primary education, the Committee recommends that the State party:

(a) Take the measures necessary to ensure that children from low socioeconomic backgrounds, Maori and Pasifika children have effective access to early childhood care and education;

(b) Further invest in the availability and quality of early childhood care and education ensuring that, at a minimum, is free for children from low socioeconomic backgrounds, and that care personnel is adequately trained, including on Maori and Pasifika cultures.

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

39. While welcoming the State party's efforts, the Committee draws the State party's attention to its general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, and recommends that the State party strengthen its efforts to improve all children's access to rest, play and leisure and address existing inequalities in access to play and outdoor activities, including under its Out of School Care and Recreation subsidy model.

### **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)**

#### **Asylum-seeking and refugee children**

40. The Committee recommends that the State party amend the 2013 Immigration (Mass Arrivals) Amendment Act to ensure respect for the right of the child to family reunification, to have his or her best interests taken as a primary consideration in the issuance of permanent residence permits and to ensure that children's views and best interests are taken into account in the refugee status determination process. The Committee recalls its previous recommendation (CRC/C/15/Add.216, para. 46) and recommends that the State party strengthen its efforts to promote the integration of and access to services by asylum-seeking and refugee children, with particular attention for those with disabilities.

#### **Children belonging to minority or indigenous groups**

41. While welcoming the efforts undertaken by the State party to implement culturally appropriate programmes such as the Whanau Ora, the Committee remains seriously concerned about the structural and systematic disadvantages Maori and Pasifika children face in the State party.

42. **With reference to the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention, the Committee urges the State party to develop a comprehensive, cross-sectorial strategy for the full enjoyment of the rights of Maori and Pasifika children, in close cooperation with them and their communities.**

**Economic exploitation, including child labour**

43. The Committee notes the adoption of the Health and Safety at Work Act in 2015 but is seriously concerned about:

- (a) The continuing absence of a minimum age of admission to employment;
- (b) The absence of child-specific provisions in the Health and Safety at Work Act recognizing working children's vulnerability to workplace injury and to casual contracts carrying lesser protection for workers;
- (c) The exclusion of children aged 15 and above from the new protection proposed by regulation number 54 on handling hazardous substances;
- (d) The enduring lack of minimum wage guarantees for workers under 16 years of age, including under the new Starting Out Wage initiative;
- (e) The insufficient awareness of their rights by working children or children who want to work.

44. **The Committee recalls its previous recommendation (CRC/C/NZL/CO/3-4, para. 50) and recommends that the State party:**

- (a) **Establish a minimum age of admission to employment in line with international standards;**
- (b) **Amend the Health and Safety at Work Act to recognize and address working children's vulnerability to workplace injury and ensure respect for their rights under any type of contract, including casual contracts;**
- (c) **Review the draft regulation number 54 to ensure all working children under 18 are protected from hazardous work;**
- (d) **Establish minimum wage guarantees for working children under 16 years of age, including in the new Starting Out Wage initiative;**
- (e) **Conduct awareness-raising programmes, including campaigns, targeting children and their parents on the rights of working children;**
- (f) **Consider ratifying the International Labour Organization Minimum Age Convention, 1973 (No. 138).**

**Administration of juvenile justice**

45. **Regretting that the State party has not progressed in the area of juvenile justice, recalling its previous recommendations (CRC/C/NZL/CO/3-4, para. 56 and CRC/C/15/Add.216, para. 50) and in the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party:**

- (a) **To raise the minimum age of criminal responsibility in accordance with the Committee's general comment No. 10, and notably its paragraphs 32 and 33;**
- (b) **To raise the age of criminal majority to 18 years;**

(c) To withdraw expeditiously its reservation to article 37 (c) of the Convention and ensure that any child, male or female, deprived of liberty is separated from adults in all places of detention;

(d) To intensify its efforts to implement the recommendations made by the Joint Thematic Review of Young Persons in Police Detention to reduce the detention of children in police custody, improve detention conditions and limit the use of detention to a measure of last resort and for the shortest period of time;

(e) To strengthen its efforts to address the overrepresentation of Maori and Pasifika children and young people in the juvenile justice system, including by improving the police's cultural capability and by investigating allegations of racial biases.

#### **Children affected by the Canterbury earthquakes**

46. The Committee recommends that the State party ensure adequate funding is allocated to mental health and counselling services to children in Canterbury, including in schools, and develop guidelines to take into account children's rights, including their right to be heard and to have their best interests taken as a primary consideration, in post-disaster recovery and reconstruction efforts.

#### **Follow-up to the Committee's previous concluding observations and recommendations on the Optional Protocol on children in armed conflict**

47. The Committee regrets that the State party did not submit sufficient information on the implementation of its recommendations (CRC/C/OPAC/CO/2003/NZL/1) and urges the State party to provide comprehensive and detailed information in that regard in its next report. Furthermore, the Committee recommends that the State party explicitly prohibit and criminalize the recruitment and use in hostilities of persons under 18 years of age by non-State armed groups and establish and exercise extraterritorial jurisdiction over all crimes under the Optional Protocol.

### **J. Ratification of the Optional Protocol on a communications procedure**

48. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

### **K. Ratification of international human rights instruments**

49. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the core human rights instruments to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### **L. Cooperation with regional bodies**

50. The Committee recommends that the State party cooperate, among others, with the Association of Southeast Asian Nations Commission on the Promotion and Protection of the Rights of Women and Children.

## **IV. Implementation and reporting**

### **A. Follow-up and dissemination**

51. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the fifth periodic report, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

### **B. Next report**

52. The Committee invites the State party to submit its sixth periodic report by 5 May 2021 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

53. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.

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