

PART 1 GENERAL MEASURES OF IMPLEMENTATION

- 1.1 This report, in its totality, demonstrates the significant effort and commitment of the government and the public sector over the last eight years to give better effect to UNCROC and, more specifically, to address the Committee's recommendations.
- 1.2 Progress has also been made towards withdrawing reservations. New Zealand takes its international obligations seriously and has recently re-iterated an overall commitment to working towards the withdrawal of reservations to human rights treaties. Although progress has been made, New Zealand is not yet in a position to withdraw the reservations to UNCROC.

RESERVATIONS AND DECLARATIONS

CRC/C/15/Add.2.16: Para 7:

In accordance with the Vienna Declaration and Programme of Action of 1993, the Committee recommends that the State party:

- (a) expedite the changes in legislation and administrative procedures necessary for the withdrawal of its general reservation and the reservations to articles 32, paragraph 2 and 37 (c)**
- (b) continue its discussions with the people of Tokelau with a view to extending the application of the Convention to their territory.**

New Zealand is committed to working towards progressively withdrawing its reservations to human rights treaties as appropriate over time.

Children unlawfully in New Zealand (general reservation to article 2)

- 1.3 Since the last report, significant work has been undertaken into analysing whether New Zealand continues to need its general reservation to UNCROC. As part of this work, New Zealand has taken steps to ensure that levels of access to education align with UNCROC and considers that current access to health services for both children and expectant mothers is also compliant. Consideration of levels of access to social assistance and housing is currently being undertaken.
- 1.4 Steps taken during the reporting period demonstrate that New Zealand is committed to protecting the rights of all children, and takes into account the particular vulnerabilities of unlawful migrant children when assessing whether there is an ongoing need for the reservation. However, there are other legitimate concerns, such as effective immigration controls and resource constraints that also need to be taken into account. New Zealand also notes that other States have restricted the effect of UNCROC in regards to children unlawfully in their territories based on similar justifications.

- 1.5 More certainty as to New Zealand's position will be available at the time of New Zealand's dialogue with the Committee.
- 1.6 In 2003, the government agreed to lift the general reservation subject to reports from the Ministries of Health and Education setting out changes required to facilitate compliance. In 2005, the government agreed that current eligibility settings for access to publicly-funded health and disability services for children, and maternity services for pregnant women, were compatible with UNCROC.
- 1.7 A legislative impediment to accessing education services exists under the current Immigration Act 1987, as Section 6 of that Act makes it illegal for a school to knowingly enrol a child who is unlawfully in New Zealand. This said, the offence provisions relating to the enrolment of children unlawfully in New Zealand have rarely, if ever, been exercised, and the immigration authorities do not actively target school-aged children not lawfully in New Zealand. In recognition of this impediment to accessing education, this issue was considered as part of the 2006 fundamental review of the Immigration Act 1987. New legislation, the Immigration Bill, proposes to remove the current offence provisions against education providers who allow a child (19 years and under) unlawfully in New Zealand to undertake compulsory education. This will remove a current deterrent for schools, allowing them to provide access to compulsory education to all children, regardless of their immigration status. The Bill was before the House prior to the dissolution of Parliament on 3 October 2008.
- 1.8 In addition, the 2007 introduction of an electronic enrolment and tracking system for all children enrolling in schools has meant that both schools and parents/guardians may be deterred from enrolling children whose immigration status is in question due to the requirement to provide documentation. In its first full year of operation, approximately 1,500 children have been unable to present suitable documentation, although not all of these are children unlawfully in New Zealand.
- 1.9 An interim measure has been put in place to address the deterrent effect of the current Immigration Act offence, and the documentation requirement under the recent electronic system. Limited Purpose Permits have been designed to enable schools to provide education to children unlawfully in New Zealand without the threat of enforcement until new Immigration legislation is passed. Limited Purpose Permits can be granted under Section 35A of the Immigration Act 1987, providing a statutory mechanism to grant a permit to a person who is unlawfully in New Zealand and not otherwise able to apply for any permit. Granting of the permit is conditional on steps being taken to regularise immigration status. New Zealand considers that this is the most cost-effective way to balance maintaining effective immigration controls, managing concerns around the protection of New Zealand's fee-paying foreign student education industry and taking into account the rights of children. The interim arrangements will no longer be required if amendments, (which were part of the Immigration Bill before the House when Parliament was dissolved on 3 October 2008) are enacted in the following form:
- **Compulsory education** means education that is:
 - (a) provided at any primary, intermediate, composite, secondary or special school (within the meaning of the Education Act 1989), whether State, private or integrated
 - (b) provided to a person at any time during the period beginning on the person's fifth birthday and ending on 1 January following the person's 19th birthday

- **Clause 315** (Offences by education providers) provides that:
 - (c) No person commits an offence under subsection (1) by reason of allowing, or continuing to allow, a child who is not entitled to study in New Zealand to undertake compulsory education.

1.10 Following enactment, the Ministry of Education will put in place a process to enable children unlawfully in New Zealand to be treated as domestic students for the purpose of enrolment at school.

1.11 The government's view is that there are legitimate concerns that need to be taken into account when considering withdrawal of the reservation, such as resource implications and effective immigration controls. Steps taken to address access to education demonstrate that New Zealand is committed to protecting the rights of all children, and that it takes into account the particular vulnerabilities of unlawful migrant children when making these assessments. New Zealand also notes that other States have restricted the effect of UNCROC in regards to children unlawfully in their territories based on similar objective and reasonable justifications.

Minimum age of access to employment - (article 32(2))

1.12 The Committee has recommended that New Zealand's policy and law on child labour be reviewed and that New Zealand consider ratifying ILO Convention No. 138 on a minimum age for admission to employment.

1.13 New Zealand's consistent approach is that our existing policy and legislative framework already provides effective age thresholds for entry into work in general, and for safe work. The framework that makes up the New Zealand approach includes the:

- **Education Act 1989** which requires children to attend school until the age of 16, with limited exemptions (for attending alternative education or training). The Education Act also prohibits employers from employing children under 16 during school hours or when it would interfere with their attendance at school.
- **Health and Safety in Employment Act 1992** which sets out duties to provide safe workplaces, manage workplace hazards, and ensure appropriate supervision protects the health and safety of people at work. It applies to all workers, regardless of age. The Health and Safety in Employment Regulations 1995 restrict young people under 15 from working in dangerous workplaces (such as manufacturing, construction sites, tree felling), and from doing hazardous work (such as working with machines and mobile plant, and heavy lifting). They also restrict people under 16 from night work.
- **Prostitution Reform Act 2003** decriminalises prostitution but prohibits the use of persons under 18 years of age in prostitution. In addition, the Act makes it an offence to arrange for, or to receive commercial sexual services, from a person under 18.
- **Sale of Liquor Act 1989** bans people under 18 from selling liquor in licensed premises.

1.14 The effectiveness of New Zealand's current framework in protecting children from exploitative or excessive hours of employment was confirmed following research undertaken by the Department of Labour in 2002 and 2003. This research found that part-time employment among school-age children (which falls into the category of light work) is widespread, not harmful, and in the main, well regulated by health and safety regulations and education legislation.

- 1.15 Allowing children and young people to undertake paid employment is generally seen by New Zealanders as beneficial. This is the view of children and young people also, who appear not to favour restrictions by age on their ability to work. This is illustrated by comments from children in surveys such as the *Young People and Work 2003* survey by Gasson et al and Caritas Aotearoa New Zealand's 2003 survey, *Protecting Children at Work*. These surveys show that children under age 13 are working. In the *Young People and Work 2003* survey of Auckland school-aged children, around 20 percent of 11 year olds said they were working (on average only 5.8 hours per week in activities such as household jobs and delivering papers). Most children in this survey were against the introduction of a blanket minimum age for employment, and most of those who did suggest a minimum age suggested either their own age or younger.
- 1.16 The Glasson and Caritas research did find some examples of school children working unsupervised, getting injuries, working to supplement the family income, and earning very low pay. The research also found that children have a general lack of awareness about their employment rights and whether or not their employers are complying (confirmed by a more recent study of school-aged children in New Plymouth).
- 1.17 To remedy these issues, a comprehensive Children's Employment Work Programme was put in place in 2004. The Children's Employment Work Programme includes:
- an information strategy for the public and for agencies who work with children to improve awareness of existing children's employment rights and protections
 - measures to improve children's ability to enforce their employment rights, and raise issues about children's employment
 - bringing children who work as contractors under the same Health and Safety in Employment regulations that apply to children as employees
 - options and recommendations on methods to monitor children's participation in work
 - reviewing the age threshold prohibiting hazardous work in the Health and Safety in Employment regulations, and whether to raise the age from 15 to 16 years
 - investigating workplace practices regarding 16 to 18 year olds, in hazardous work, particularly regarding training and supervision
 - examining ways to guarantee adequate meal and rest breaks for young people in work.
- 1.18 Achievements to date, under the Children's Employment Work Programme include:
- raising awareness of regulations and rights with strategic campaigns, networking with youth publications and innovative ways of engaging young people. This has included a 'clock' heralding introduction of the minimum wage changes, a comic-style fact sheet, a radio song competition, fact sheets in Māori and Pacific languages, and an interactive forum on the Tearaway youth magazine website. Networking with schools, school publications and stakeholder groups has also taken place.
 - a review of the Health and Safety Regulations (currently under way). Approval was recently given to amend regulations to extend the age-based prohibitions on hazardous work to young people doing contract work. It places duties on principals similar to those that already apply to employers and will come into force in 2009.
 - monitoring children in work. In mid 2007, the Department of Labour released the first of its Youth Labour Market Outcomes reports for monitoring children's participation in work and, in August 2008, produced regional specific reports.

- data collection to improve children's ability to enforce their rights. The Department of Labour has gathered information about what issues are being raised by young people (and those who make contact on behalf of young people).

1.19 In addition, consideration of New Zealand's ratification of ILO 138 is ongoing and New Zealand has been engaged in an ongoing dialogue with the ILO over prospects for ratification of ILO Convention 138. As stated above, New Zealand considers its existing policy and legislative frameworks provide effective age thresholds for entry into work and ensure that children only engage in safe work.

Age-mixing in detention (article 37(c))

1.20 New Zealand has made significant progress towards removal of the reservation to article 37(c) of UNCROC. In 2005, the Department of Corrections completed four specialist youth units in male prisons to ensure that there are sufficient beds to accommodate youth offenders separately from adults. The low number of female prisoners under the age of 18 makes a female youth unit facility unviable. However, females under the age of 18 are still separated from those 18 and over unless it is in their best interest to be mixed with older prisoners.

1.21 To further support alignment with article 37(c), a change to the Department of Corrections regulations in 2005 lowered the age threshold for youth from 20 to 18, with the result that young people under the age of 18 will not be mixed with older prisoners. At the same time, a 'test of best interests' was developed to facilitate age-mixing of vulnerable 18 and 19 year olds with under 18-year olds, where this is in the best interests of the under-18 year olds. The rationale for designing this test was that for some vulnerable 18 and 19 year olds, residing in the youth unit remained in the best interests of the under-18 year olds, while also being better for the vulnerable 18 and 19 year olds, than being mixed with adults. For example, the test accommodates youth who turn 18 while in prison to remain in the youth unit providing the test continues to be met.

1.22 The 'test of best interests' was piloted during 2006/2007 in two youth units and evaluated in 2007, with some operational changes being made. It has now been rolled out to all prisons with youth units. The impact of the trial is that, although some age-mixing occurs, a significant proportion of over-18 year olds are excluded and go into the adult prisons, as their presence in the youth unit is not in the best interests of the under-18 year olds. Regarding age-mixing in prisons, New Zealand is fully compliant with article 37(c).

1.23 In 2007, the Ministry of Justice undertook a comprehensive review of all the settings where young people are detained. It confirmed that New Zealand is compliant in the following areas: the Customs Service (border control), the Defence Force (imprisoning defence force personnel), and the Ministry of Health (mental health).

1.24 In addition, the Department of Corrections is currently fully compliant with article 37(c) regarding age-mixing of prisoners in transit outside prisons. This follows a directive issued by the Minister of Corrections in August 2006 that no prisoner aged 17 years or under is to be transported in the same vehicle compartment as prisoners aged 18 years and older.

- 1.25 Proposed amendments in the Immigration Bill, if enacted will ensure that the Department of Labour is compliant in regard to immigration-related detention. In addition, Police and the Department of Corrections are currently developing a joint protocol for the custody and transportation of young offenders.
- 1.26 Further work is required regarding custody settings, especially court cells (managed by the Ministry of Justice) and with Police transporting under-18 year olds to ensure full compliance with article 37(c). Both these agencies are working to achieve compliance as soon as is practicable. Using audiovisual links in court proceedings (reducing the number of prisoner/defendant transfers) and raising of the upper age to 18 years for young people, proposed in the Children, Young Persons and Their Families Amendment Bill (No. 6), which was being considered by Parliament at the time it was dissolved, are two key pieces of work that will offer opportunities to reduce age-mixing and improve compliance with UNCROC.

Children should not be locked up with adults if they have committed a crime – we are worried that something bad could happen to the children - they could get hurt and be taught bad things by bad men. Children should be with other children, in a special kid's jail. Kids need a warning first and then go to a kid's jail to learn a lesson or have a home arrest so that they can still go to school and keep learning. [Room 9, Maungaraki School, (8 – 9 years old), education and discussion on UNCROC with UNICEF Advocacy Officer, 2007]

Tokelau

- 1.27 Tokelau held referenda on its political future in February 2006 and October 2007 and both times opted to retain its status as a non-self-governing territory administered by New Zealand. Consequently, New Zealand remains responsible at international law for the fulfilment of the obligations contained in treaties that it has applied to Tokelau.
- 1.28 The issue of UNCROC's extension to Tokelau has continued to be discussed in Tokelau and between New Zealand and Tokelau during the reporting period. However, Tokelau's primary focus has continued to be on the larger issues of its constitutional development. New Zealand continues to work with, and support, Tokelau to ensure that the provisions and protections afforded to children on the islands match as closely as possible those guaranteed to New Zealand children under UNCROC. Tokelau has also adopted its own set of Human Rights Rules (2003), which provide that the individual human rights for the Tokelau people are those stated in the Universal Declaration of Human Rights, and are reflected in the International Covenant on Civil and Political Rights.
- 1.29 A core principle underpinning New Zealand's support for Tokelau is that the basic services available on the islands, such as healthcare and education, should be at least equivalent to those available in remote rural areas of New Zealand.
- 1.30 Since the referenda, Tokelau, with the full support of New Zealand, has been engaging in a period of reflection on how it can ensure its people's needs are met on each atoll through the strengthening of infrastructure and services. New Zealand and Tokelau continue to work together to strengthen and improve public services in Tokelau, including in the education sector for instance where teachers are being provided with training and information in relation to recent curriculum reform. Major work on upgrading essential infrastructure is well under way, and Tokelau continues to make progress in ensuring that each atoll is able to operate as a vibrant, forward-looking community.

LEGISLATION (article 4)

CRC/C/15/Add.2.16: Para 9:

The Committee reiterates its recommendation that the State party initiate a comprehensive review of all legislation affecting children and take all necessary measures to harmonise its legislation with the principles and provisions of the Convention.

- 1.31 Prior to UNCROC's ratification in 1993, New Zealand undertook a compliance assessment process to ensure consistency between existing legislation, and UNCROC's principles and provisions. The government remains confident that there are mechanisms in place to ensure ongoing legislative reform takes full account of and, wherever possible, gives effect to UNCROC. These mechanisms include the Ministry of Youth Development's role in providing advice to government on policy and legislative implications for New Zealand's commitments to, and obligations under UNCROC.
- 1.32 All legislative reforms are also scrutinised to identify whether the proposals set out in those reforms are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. Furthermore, departments are required to advise Cabinet if any of their policy proposals raise issues in terms of human rights.
- 1.33 Over the reporting period, efforts have been made to better align domestic legislation with UNCROC, including the Care of Children Act 2004 and the Crimes (Substituted Section 59) Amendment Act 2007. Conformity with UNCROC has also been an important focus for fundamental re-drafting of the 1987 Immigration Act, and review of the Children, Young Persons and Their Families Act 1989, both of which resulted in Bills before the House when Parliament was dissolved on 3 October 2008.
- 1.34 The following table sets out legislation enacted over the reporting period that gives effect to the Convention.

Legislation	Effect
PART 2 Article 1	Marriage Amendment Act 2005 lowered the age at which people can marry without consent from 20 years to 18 years. Prior to this Act, people who were 18 and 19 needed consent to marry.
	Prostitution Reform Act 2003 decriminalises prostitution but prohibits using persons under 18 years in prostitution. It is an offence to arrange for or to receive commercial sexual services from a person under 18.
PART 3 Article 3.1, 12, 19, 2, 7.1	Evidence Act 2006 allows witnesses under 12 years to give evidence without first having to swear an oath or make a formal affirmation. It also allows the judge to account for the witness' maturity when considering whether questions should be disallowed. It increases protection for children under 18 years giving evidence, and includes video-conferencing and protective screens, and restrictions on cross-examination.
	Status of Children Amendment Act 2007 introduces a new part into the Status of Children Act 1969 on the status of children conceived through certain assisted human reproductive procedures. A key purpose was to continue providing these children with certainty about their legal parents.
PARTS 3 and 4 Article 3.1, 13.1,	Human Assisted Reproductive Technology Act 2004 provides for donor offspring to access donor information that is kept by the Registrar General and by providers.

Legislation	Effect
24.1, 8	
<p>PART 4</p> <p>Article 7, 13, 15, 3.1, 5, 9, 12, 12.2 16, 17, 19, 34</p>	<p>Citizenship Act 1977 has new provisions that came into force on January 2006 and allow a child born in New Zealand on or after that date, to be a New Zealand citizen if at least one of his or her parents is a New Zealand citizen or is entitled to remain in New Zealand indefinitely (for example, a resident). For citizenship purposes, New Zealand includes the Cook Islands, Niue, Tokelau and the Ross Dependency.</p> <p>Corrections Act 2004, Section 77 provides for minimum standards regarding phone calls for all prisoners, with r181(1) of the Corrections Regulations 2005 entitling a young prisoner to make one phone call per week in addition to the Section 77 entitlement.</p> <p>Care of Children Act 2004 requires that the welfare and best interests of the child must be a paramount consideration when the Family Court makes decisions and it establishes seven principles for the Court to observe when making decisions about a child's welfare and best interests.</p> <p>Crimes (Intimate Covert Filming) Act 2006 creates three new offence provisions relating to making of an intimate visual recording, the possession of intimate visual recording, and the publishing, importing, exporting or selling of an intimate visual recording.</p> <p>Unsolicited Electronic Messages Act 2007 prohibits unsolicited commercial electronic messages (spam) with a New Zealand link. This will help to protect children against exposure to the kind of inappropriate material often associated with spam messages.</p> <p>Television New Zealand Act 2003 sets out a Charter for State-funded broadcasting by Television New Zealand (TVNZ). The Charter requires TVNZ to feature New Zealand and international programmes that provide for children and young people's informational, entertainment and educational needs, and participation.</p>
<p>PART 5</p> <p>Articles 13.2, 19, 1, 27, 28.2, 37(a)</p>	<p>Employment Relations (Flexible Working Arrangements) Amendment Act 2007 provides eligible employees with the right to request flexible working arrangements to enable them to care for someone, for example children and young people. Young workers who have caring responsibilities and who meet the eligibility criteria of the Act will also be able to request a flexible working arrangement.</p> <p>Child Support Amendment Act 2006 significant amendments in 2006 to the Child Support Act 1991 allowed Inland Revenue to write off some penalty debt if a liable parent entered and maintained an arrangement to pay both current child support liability and an agreed amount off liability arrears; initiate an administrative review of child support liability if it considers child support amount payable by a liable parent does not accurately reflect that parent's ability to provide financial assistance for his or her child(ren); and introduce a permanent exemption from liability for victims of sex offences and a temporary exemption for liable parents under the age of 16 years.</p> <p>Crimes (Substituted Section 59) Amendment Act 2007 removes reasonable force as a defence for a parent/guardian correcting or disciplining a child.</p>
<p>PART 5 and 6</p> <p>Article 27.1, 27.3</p>	<p>Social Security (Working for Families) Amendment Act 2004 provides targeted financial incentives for certain persons to enter into and stay in, employment. The reform package that sits underneath the legislation has significantly reduced the numbers of children experiencing poverty or hardship.</p>
<p>PART 6</p> <p>Article 27, 2</p>	<p>Taxation (Working for Families) Act 2004 introduced those parts of the Working for Families reform package relating to tax credits for families. The package included increased family tax credits, introducing new in-work tax credits and phasing out of the child tax credit. Changes were introduced between 1 April 2005 and 1 April 2007.</p>

Legislation	Effect
	Civil Union Act 2004 and Relationship (Statutory References) Act 2005 establishes neutral laws on relationships that apply across the board, whether those relationships are marriages, civil unions, de facto relationships or same-sex relationships. A child aged 16 or 17 can enter a civil union provided they have the consent of each of his or her guardians. If consent is refused, the child can apply to the Family Court for consent. This legislation affords children whose parents/caregivers are in same-sex or de facto relationships the same legal protections enjoyed by children whose parents/guardians are married.
PART 8 Articles 37(a), 37(b), 40.1, 2, 32	<p>Crimes of Torture Amendment Act 2006 establishes a sub-committee of the Committee Against Torture that will regularly visit places where people are deprived of their liberty. It also sets the framework for establishing National Preventive Mechanisms to visit and monitor places of detention, such as youth units in prisons, police cells, court cells, and Child, Youth and Family residences.</p> <p>Minimum Wage (New Entrants) Amendment Act 2007 abolishes the previous youth minimum wage rate and establishes a new entrants wage. The new entrants wage provides for 16 and 17 year olds to receive 80 percent of the minimum wage for the first 200 hours of work or the first three months whichever occurs first. However, if a 16 or 17 year old is undertaking a supervisory role, they are eligible for the same minimum wage as an adult.</p>

CO-ORDINATION AND NATIONAL PLANS OF ACTION

CRC/C/15/Add.2.16: Para 11:

The Committee recommends that the State party establish a permanent mechanism to co-ordinate activities by all actors and stakeholders implementing the Convention, the Agenda for Children and the Youth Development Strategy. Sufficient financial and human resources should be allocated to ensure that they are fully implemented and effectively co-ordinated.

- 1.35 There have been a number of changes that better align resources so as to improve outcomes for children and young people. Significant organisational changes have contributed to improved co-ordination between agencies, emphasising the need for collaboration and promoting a stronger focus on children's well-being in many major social policy developments. Leadership for collaboration is provided from the top, with Chief Executives from the core social agencies, Health, Education, Justice and Social Development, meeting regularly.
- 1.36 In late 2003, the Ministry of Youth Affairs, (created in 1998 to provide a youth perspective on government activity), became the Ministry of Youth Development, combining Youth Affairs and the youth policy functions of the Ministry of Social Development. The Ministry of Social Development provides administrative support to the new Ministry of Youth Development. This change has enabled better co-ordination of youth policy, while continuing to provide a voice for young people within government.
- 1.37 In 2006, the Department of Child, Youth and Family Services (Child, Youth and Family) became a service line of the Ministry of Social Development, improving the alignment of child care and protection and youth justice policy and operations. The Ministry of Social Development now has responsibility for delivering statutory social services to protect and help children who are being abused or neglected or exhibit problem behaviour. Prior to this, a number of functions previously undertaken by Child, Youth and Family were transferred to

Family and Community Services. Created in 2004 as a new service line of the Ministry of Social Development, Family and Community Services supports families and communities to be strong and well connected.

- 1.38 These changes have provided a number of benefits including increased capacity and capability, reduced overheads and financial alignment. Being structurally and physically co-located facilitates improved collaboration and greater alignment, and improves research, policy development and service delivery. They have also improved synergy of activity regarding children and young people.
- 1.39 The Agenda for Children and the Youth Development Strategy Aotearoa, both published in 2002, continue to provide platforms to inform work to place children at the centre of policy-making. This work has led to better research and data gathering on the position and well-being of children and the impact of policies on them, and has also increased opportunities for young people to participate in decisions that affect them. Additionally, there has been greater involvement of child experts and children's interest groups in policy development.
- 1.40 The increased emphasis on collaboration extends beyond inter-agency co-ordination. In addition collaboration on policy initiatives with statutory agencies such as the Office of the Children's Commissioner, and non-government organisations, such as Barnardos, is becoming standard practice.
- 1.41 Recognising the important role non-government agencies play, the government initiated Pathway to Partnership in July 2007. This is a multi-year plan to strengthen community-based family, child and youth services. It involves a significant increase in funding and encourages strong supportive working relationships between the government and the non-government sector. The plan was developed in partnership with government agencies and non-government organisations that deliver child, youth and family services.

INDEPENDENT MONITORING

CRC/C/15/Add.2.16: Para 13:

In light of its general comment No. 2 on national human rights institutions, the Committee recommends that the State party use the discussion of the Commissioner for Children's Act, which is currently before Parliament, to ensure that the Office of the Commissioner for Children and the National Human Rights Commission are equally independent and that they report to the same political body, and to define the relationship between the two institutions, including a clear division of their respective activities. In addition, the Committee urges the State party to ensure that the Office of the Commissioner for Children receives sufficient human, material and financial resources to carry out its mandate.

- 1.42 The Children's Commissioner Act that was before Parliament at the time of New Zealand's second periodic report, was enacted in 2003. This Act has strengthened and increased resources and powers available to the Children's Commissioner. The Act sets out the Commissioner's responsibilities of raising awareness of children's interests, rights and welfare and monitoring the application of UNCROC in Crown agencies' actions. This is in addition to the Commissioner's previous statutory investigative and monitoring role regarding Child, Youth and Family. Resourcing for the Office has also doubled since 2000/2001.

- 1.43 The Office of the Children's Commissioner and the Human Rights Commission are both classified under the Crown Entities Act 2004 as independent Crown entities where Commissioners are appointed by the Governor-General and can only be removed from office if there is just cause. This reflects the independent nature of the roles, which are free from political influence and report directly to Parliament.
- 1.44 The two entities have separate reporting lines but both report to Ministers of the Crown. The Children's Commissioner reports to the Minister for Social Development and Employment, while the Human Rights Commission reports to the Minister of Justice.
- 1.45 The functions and responsibilities of both entities are clearly set out in their respective legislation (for the Human Rights Commission; the Human Rights Act 1993, and for the Office of the Children's Commissioner, the Children's Commissioner Act 2003).
- 1.46 Both organisations work closely together and meet regularly. They have a number of activities of shared responsibility such as implementing the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see Part 3). There will be some areas of overlap as the Children's Commissioner has responsibility for issues regarding children and young people while the Human Rights Commission has responsibility for the rights of all New Zealanders.
- 1.47 The Children's Commissioner has offices in Wellington and Auckland and a staff establishment of around 15 people. The Office of the Children's Commissioner is funded by Parliament through Vote: Social Development. Its operating budget for the 2007/2008 financial year is \$1.938m (excluding GST), and it has net assets of \$0.704m as at 1 July 2007.
- 1.48 As well as the monitoring and investigative functions, the Children's Commissioner produces a wide range of resources, mostly on children's rights, as well as in-depth reports. Reports often relate to issues arising from the monitoring and investigative functions or canvas topical issues such as the recent report on child poverty 'A fair go for all children: Actions to address child poverty in New Zealand'.

RESOURCES FOR CHILDREN (article 4)

CRC/C/15/Add.2.16: Para 15:

The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, "to the maximum extent of ... available resources". The Committee further recommends that the State party gather disaggregated data on budget allocations for children and systematically assess the impact of all its economic policy initiatives on children.

- 1.49 Significant investment has been made during the reporting period in increasing resources for children. Examples of funding that will benefit children and young people include:

- 2004, \$56 million to assist with youth transitions; creating additional modern apprenticeship places, boosting delivery of vocational opportunities in school, provision of youth transitions services and additional career services
- 2004, an extra \$250 million over four years to implement the Mental Health Blueprint, improving the workforce and services
- 2005, \$30.7 million to increase spending on assessments, and support for children with special education needs
- 2005, \$3.23 million for Community Action on Youth and Drugs
- 2006, \$162 million to provide 20 hours free early childhood education and care to all three and four year olds and boost the number of qualified staff
- 2006, \$11.5 million for Family Violence Prevention initiatives
- 2006, \$67 million for Mission On; a package of initiatives to encourage healthy eating and healthy activity in children and young people
- 2007, \$133.4 million for 702 extra year 1 teachers to bring the teacher to pupil ratio down to 1:18 by mid 2008 – with the aim of boosting foundational literacy and numeracy for younger students and progress towards a 1:15 ratio
- 2008, \$446 million to strengthen the community based child, youth and family sector.

1.50 These are just a few examples of increased expenditure, and do not include other major initiatives described throughout the report such as increased funding for primary healthcare as part of the Primary Health Care Strategy, investment in Working for Families, increased salaries for primary and secondary school teachers, and increased baseline funding to address the capacity and capability of Child, Youth and Family.

1.51 Government is continually monitoring expenditure to ensure that it is being effectively used, and that both old and new policy initiatives are achieving their stated aims. Assessing where money is allocated, and who benefits, is an ongoing process. The impact any policy has on different segments of society including children and young people, is always part of these considerations.

1.52 No single project has gathered disaggregated data on budget allocations for children over the reporting period. The matter was investigated but it proved too difficult to get the full picture across different government funding streams. In some areas such as Health - where there has been substantial investment over the last five years - specific expenditure on children and young people is difficult to quantify.

INTERNATIONAL CO-OPERATION (article 4)

Aid and development programme

1.53 Government commissioned an independent review of New Zealand's aid programme in 2000. As a result the New Zealand Agency for International Development (NZAID) was created in September 2001. Its core focus is poverty elimination with a regional focus on the Pacific. This reflects the government's commitment to being a good international citizen and neighbour.

1.54 NZAID aims to improve quality of life by protecting and promoting human rights as set out in the Universal Declaration of Human Rights and all core international human rights instruments, including UNCROC.

Overseas development assistance

- 1.55 In 2007/08, NZAID's development programme budget was \$412.65 million. New Zealand is moving progressively towards the Overseas Development Assistance Millennium Development Goal target of 0.7 percent of Gross National Income. In August 2003, the government re-affirmed this commitment to 0.7 percent as and when resources permit. In 2008, the government announced that New Zealand's aid budget would increase to 0.35 percent of Gross National Income by 2010/11 – projected to be \$600 million. This represents the largest dollar increase ever for New Zealand's development assistance programmes.
- 1.56 New Zealand targets around 18.4 percent of its total Overseas Development Assistance to the work of the United Nations and Commonwealth agencies, the World Bank, the Asian Development Bank, and the Red Cross. NZAID's Multilateral Engagement Strategy prioritises engagement with ten agencies which have a proven track record, show strong alignment with New Zealand's policies and priorities, and provide good value for money. These agencies include the United Nations Development Programme (UNDP), United Nations Children's Fund (UNICEF) and Office of the High Commissioner for Human Rights (OHCHR).
- 1.57 The Pacific is the key focus area for New Zealand's aid and development assistance. In addition to initiatives that fund education and health services for children and young people, recent initiatives that directly impact on children include:
- funding over three years of approximately \$900,000 to the Pacific Youth Stars initiative, through NZAID's strategic partnership with UNICEF. The programme focuses on building 'life skills' (including HIV and sexual and reproductive health issues) into education curricula
 - funding in the area of HIV and AIDS, for Marie Stopes International to institute large scale Condom Social Marketing Campaigns in Fiji, Tuvalu and Samoa. The initiative is youth-focused and trains young people to sell condoms in villages
 - contributing \$550,000 to the Talavou Youth Development Programme addressing self-esteem, community development and livelihood issues for youth in Samoa
 - funding a three year 'children/youth in conflict with the law' project in the Solomon Islands, through Save the Children. The project's goal is to protect children and youth in conflict with the law by strengthening the system to promote and protect children's rights
 - funding of \$6.4m per year for the Secretariat of the Pacific Community. A portion of this is for their Pacific Human Development Programme which is the regional mechanism for co-ordinating the Pacific Youth Strategy to 2010. NZAID actively engages with the Programme on youth issues in the region
 - funding of \$95,000 per year for the Commonwealth Youth Programme, which is used to support regional youth programmes, an office in the Solomons and youth participation
 - funding of \$2.3 million with Save the Children New Zealand towards the provision of health services, including a focus on HIV/AIDS in Papua New Guinea.
- 1.58 In addition, New Zealand contributes to a wide range of initiatives outside the Pacific, in partnership with non-government organisations and the United Nations agencies, such as UNICEF, with a focus on health and well-being of women and children through providing health and education services.

DATA COLLECTION

CRC/C/15/Add.2.16: Para 17:

The Committee recommends that the State party develop a system of data collection that covers all areas of the Convention, paying particular attention to disaggregated data on indigenous children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.

- 1.59 Since the last report, there has been significant improvement in the availability and the accessibility of data on children and young people, with an emphasis on having in place robust frameworks for collection across a range of domains (health, social well-being, education, employment). There has also been an increase in funding for research on children and young people. Better information on the position and well-being of children in New Zealand is important in improving the quality of advice and decision-making on children and young people's issues.
- 1.60 Data provided in this report is the most up-to-date information about children in New Zealand (at the time of writing). Where possible, data provided meets the requirements of UNCROC related to disaggregation by indigenous population, sex and age. Where up-to-date data is available as standard output from the relevant data source, this has been provided. Where data is not available in the required detail and format, the closest alternative is provided and the population covered by the data and its breakdown are specified.
- 1.61 There are however, some constraints on the use and reporting of data especially with the disaggregation of data due to the size of New Zealand's population, where small differences can be magnified and trends can be misleading. It is important to maintain confidentiality with disaggregated data and minimise data volatility regarding trend reporting. This is particularly important when dealing with sensitive data requests, such as child abuse statistics and youth suicide.
- 1.62 A number of child and youth-specific data collection initiatives have been instigated since the last report:
- in 2001, Youth 2000, the first major survey of secondary school students' health and well-being, provided a wealth of information on young people's health and well-being. The survey of around 10,000 students aged 12 to 18 was repeated in 2007 and is scheduled to take place again in 2011.
 - in 2003 the Child Health Information Strategy was published and is an overarching plan to guide the development, collection and use of information about children and young people's health. The Strategy's primary goal is to achieve better health for children in New Zealand by making clinically useful, appropriate, up-to-date, and accurate health information available at every contact between a child and a health professional.
 - in 2004, the Ministry of Social Development published Children and Young People: Indicators of Wellbeing in New Zealand. The report focused on 35 indicators of social well-being, within 10 social outcome domains, from health and economic security, through to education, justice and social connectedness. An updated report with an expanded number of indicators was published in 2008.

- since 2004, the Ministry of Social Development has annually published the Social Report which covers many of the same indicators as the Children and Young People: Indicators of Wellbeing in New Zealand but is across all age groups.
- in 2005, the Ministry of Education launched Education Counts, a web resource designed to increase information availability and accessibility to education statistics and research. It includes: demographic information specifically tailored for use in the education sector; various collections of statistical information including achievement data, participation, and resourcing; education information analysis, including education sector indicators and detailed examination of key education themes.
- in mid-2007 the Department of Labour released its inaugural Youth Labour Market Outcomes Report which monitors young people's participation in the labour market. This will be a regular report published on its website www.dol.govt.nz. In 2008 regional specific reports were produced.
- in 2007, the Ministry of Justice started publishing an annual report on Youth Justice statistics.

1.63 The government approved the Programme of Official Social Statistics in November 2003. It provides a coherent system of official social statistics across the government sector and is led by Statistics New Zealand. While this programme is not specifically focused on UNCROC, it provides an opportunity to improve data collection on children and expand the range of well-being indicators. The programme covers social statistics across 12 domains measuring population, knowledge and skills, paid and unpaid work, standards of living, housing, health, safety and security, culture and identity, human rights, social connectedness, leisure and recreation, and the environment. Much of this data is used for the Ministry of Social Development's annual Social Report and provides a wealth of information and the ability to monitor trends.

1.64 Statistics New Zealand continues to work on improving the quality and relevance of official statistics on Māori. The Māori Statistics Framework was developed to align official statistics collection and reporting with Māori issues and concerns. It is part of a larger strategy to enable Māori statistical needs to be met. Statistics New Zealand is developing a strategy for surveying Māori within the Programme of Official Social Statistics - including a dedicated Māori survey. The five-yearly Census is the most comprehensive single source of Māori statistical information. Because it is a total population count, it allows trends for Māori and their sub-groups to be analysed with changes monitored over time.

1.65 In addition, Statistics New Zealand is currently developing a Family Survey. A 2007 Review of Official Family Statistics identified key unmet information needs for family structure and support information. The Family Survey will focus on families with children and aim to report on family, shared care child arrangements, and the nature and extent of support which occurs between family members living in different households. Much of the survey content has not been collected in New Zealand official statistics before, so there will be new information available to inform family and children-related policy, academic research, and future family statistics collections.

Research

1.66 Hand in hand with improved data is an increased focus on research and evaluation in order to have robust evidence to support policy development and improved service delivery. Research

about children and young people is funded by government through research funding agencies, tertiary organisations, and a number of government departments.

- 1.67 The Social Policy Evaluation and Research Committee, convened by the Ministry of Social Development, is a cross-agency group of central government social policy departments established in 2001 to oversee and provide leadership on government's investment in social policy research and evaluation. It aims to enhance knowledge production and dissemination necessary to underpin future social policy. The Social Policy Evaluation and Research Committee hosts a conference every two years, and in 2007, had a youth research stream.

Research projects

- 1.68 Investment in child and youth-focused research has increased. A new longitudinal study (see below) was launched in 2008 and will begin collecting information about children from before their birth and over their life course. The Ministry of Research, Science and Technology provides ongoing funding for research on children and young people. This is administered through its funding agency, the Foundation for Research Science and Technology. As part of its social research output, there is a dedicated outcome focused on "Children and Young People Participating and Succeeding - All children and young people have the opportunity to participate, to succeed and to make contributions that benefit themselves and others." The outcome is part of the Foundation for Research, Science and Technology and has guided research investment in this particular area since 2005.
- 1.69 A key project funded under this research priority is Massey University's Pathways to Resilience, which commenced in July 2008. Pathways to Resilience is a five-year research programme that will offer a unique opportunity to generate policy and practice-relevant evidence on pathways that children and young people travel leading to involvement with the youth justice, child protection, specialist educational and community support systems. The Pathways to Resilience Programme will inform policy and practice development on key individual and ecological differences between those who overcome adversity (resilient), those who do not, and the types of service configurations that most enhance resilience.
- 1.70 A new longitudinal study of 7,600 children in the Auckland/Waikato region is being commissioned by the Ministry of Social Development and undertaken by a consortium of researchers led by the University of Auckland. Government has invested \$6 million in new funding over two years and \$7.416 in re-prioritised funds in the study.
- 1.71 This study supplements the world-leading Christchurch and Dunedin longitudinal studies which began in the 1970s, and will provide valuable information for policy development by following children from before birth and across their life course. Demographics have changed significantly since the 1970s and a greater representation of Māori, Pacific and other ethnicities is needed to reflect today's society. First results are expected in 2010. A Pacific families' study, the first longitudinal study of Pacific Island children and families, is also currently taking place and involves a thousand children born in 2000.

TRAINING AND DISSEMINATION OF THE CONVENTION (articles 42 and 44)

CRC/C/15/Add.2.16: Para 19:

The Committee recommends that the State party:

- (a) undertake public awareness campaigns, including through the mass media, on children's rights aimed at the general public and specifically at children**
- (b) carry out systematic education and training on the principles and provisions of the Convention for all professionals working with and for children, in particular teachers, judges, parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers.**

Dissemination

1.72 The Ministry of Youth Development is the government agency responsible for co-ordinating government work on UNCROC, but shares with the Human Rights Commission and the Children's Commissioner responsibility for publishing and disseminating information on children and young people's rights.

1.73 The Ministry of Youth Development has a dedicated "rights" section on its website, which hosts all the core UNCROC documents. To support web-based information both the Ministry of Youth Development and the Office of the Children's Commissioner publish a range of UNCROC-related material, including child and youth friendly versions.

1.74 A number of other dedicated channels are used to distribute information about UNCROC, including the Ministry of Youth Development's bi-monthly 12-24 magazine. The magazine has a readership of approximately 5,000 across a variety of youth work organisations, young people's networks, non-government organisations and other interested parties. Editions of the magazine have included profile-raising articles about UNCROC, and information on getting involved with the public consultation on the present periodic report.

How are we supposed to stand up for our rights when we don't even know what they are?" [female 15, UNCROC Forum, 2006]

Training

1.75 Education and training in human rights, in particular in avoiding discrimination, is one of the Human Rights Commission's core functions. The Commission has education facilitators based in each of its three offices, an 'Infoline' telephone information service and 'Enquiries and Complaints' service. Key education projects are identified in Part 5.

1.76 There has been a marked improvement in incorporating an understanding of children and young people's rights into training across a number of professions. Where appropriate, training in how to work with children and young people includes express reference to UNCROC, or an overview of the rights within UNCROC. Police and Probation officers receive this training. The curriculum for primary and secondary schools includes human rights. This means that teachers will now receive human rights training, including reference to children's rights.

1.77 Youth workers, Corrections staff and all recruits in the Armed Forces receive information on UNCROC. Social and Youth Justice workers, and the Judiciary receive information relevant to the rights they deal with. Army recruits also receive information on the Laws of Armed Conflict and the Optional Protocol to the Convention on the Involvement of Children in Armed Conflict.

FACTORS AND DIFFICULTIES

- 1.78 There has been an increasing focus and higher level of investment in New Zealand's children and young people over the reporting period. The emphasis in expenditure over this time has seen significant investment in raising incomes for working families, large investments in health promotion, and early childhood education. Particular attention has been paid to improving the health and well-being of the most vulnerable children.