

## **PART 8 SPECIAL PROTECTION MEASURES**

### **CHILDREN IN SITUATIONS OF EMERGENCY (articles 22, 38 and 39)**

#### **CRC/C/15/Add.2.16: Para 46**

**The Committee recommends that the State party continue its efforts to integrate refugee children into society and undertake an evaluation of current programmes, in particular language training, with a view to improving their effectiveness.**

#### ***Measures to support the integration of refugee children into New Zealand society***

- 8.1 The Department of Labour (Immigration) is reviewing aspects of the refugee resettlement policy as a work item under the New Zealand Settlement National Action Plan. The review's purpose is to provide a common direction (at national level) to support ongoing collaboration by government agencies, local government, non-government organisations and communities, in refugee resettlement. It also aims to progress better refugee resettlement outcomes. The review recognises the absence of end-to-end sector co-ordination, leadership and accountability, and an inconsistent approach among stakeholders to refugee resettlement in New Zealand. It seeks to address these issues by improving service provision, co-ordination and administrative efficiencies.
- 8.2 The review recognises that refugee youth and children can face additional resettlement challenges to those faced by adult counterparts, to which policy and services must be responsive. Unaccompanied children resettled under the refugee quota programme are placed under the care of Child, Youth and Family.
- 8.3 A Settlement Interdepartmental Committee (IDC) of senior officials was convened in 2006/2007 and provides a quarterly forum for government agencies to co-ordinate refugee (and other migrants) policies and service delivery.
- 8.4 The Department of Labour's Workforce Research and Evaluation team is undertaking a programme of research on migrant and refugee youth settlement and social inclusion. This programme aims to build a picture of migrant and refugee youth in New Zealand and to identify factors which facilitate or act as barriers to settlement and social inclusion. Two projects in this research programme have recently been completed. The first is an annotated bibliography of New Zealand literature on migrant and refugee youth, summarising the themes emerging from the research and identifies main gaps. The second report is entitled 'The Experiences of Migrant Youth: a 'Generational Analysis' and is part of the larger International Comparative Study of Ethno-cultural Youth. This report provides a generational analysis of migrant youth experiences and, where appropriate, comparisons between migrant and national youth.
- 8.5 In 2003/2004, the government initiative 'Settling In' was announced in response to longstanding issues inhibiting good settlement outcomes in New Zealand, as identified by refugee and migrant communities. The project aims to assess refugee and migrant communities' social needs and lead inter-sectoral work to address those issues based on a rights and strengths-based approach. It works directly with members of the refugee and

migrant community to help them find solutions to their own needs by building knowledge and capacity.

- 8.6 The principal focus of the project is on refugees and migrants and the interface between their communities and the wider host community. It draws on expertise of the local co-ordinators who have a broad knowledge of community development and excellent inter-sectoral networks and relationships.
- 8.7 'Settling In' operates in eight New Zealand regions, providing flexibility to deal with the unique regional settlement needs given differing community demographics, existing opportunities, and networks and services within those areas. This is achieved by harnessing existing resources, supporting relationships across all sectors and supporting communities to participate in a more meaningful way. A number of the regions have youth-focused projects or projects that involve children within the context of their families.

### ***Language training***

- 8.8 In 2004, the level of English as a Second Language (ESOL) funding for students from migrant and refugee backgrounds significantly increased, from \$14.274 million in 2004/5 to \$24.242 million in 2007/8. During the reporting period, a five-year entitlement to ESOL support has been phased in for all migrant and refugee students. These increased funding levels recognise the importance of more intensive language training provision for migrant and refugee students in their first years in New Zealand schools. The longer period of eligibility recognises research findings that consolidating the necessary language for learning may take at least five years. Higher rates of funding for secondary school students acknowledges the added challenges of learning new skills across a range of curriculum areas.

## **CHILDREN IN ARMED CONFLICTS (article 38), INCLUDING PHYSICAL AND PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION (article 39)**

### ***Age of recruitment into the armed services***

- 8.9 It is prohibited by statute for any person younger than 17 years of age to be recruited into the Armed forces. Section 33(1) of the Defence Act 1990 was amended in 2001 and states: 'No person who is under 17 years may be appointed to, or enlisted or engaged in, the Navy, the Army or the Air Force'. Further detail is provided in Part 10.

### ***International commitments***

- 8.10 New Zealand has been at the forefront of international efforts to negotiate a new convention that would prohibit cluster munitions that cause unacceptable harm to civilians, within the framework known as the Oslo Process. Children are disproportionately represented among cluster munitions victims, as they are more likely to be attracted to the often colourful and interesting design of the unexploded sub-munitions. According to the UN, children on average make up 40 percent of all civilians killed or injured by cluster munitions.
- 8.11 Reflecting the humanitarian concerns that we have with cluster munitions, New Zealand hosted an international conference of the Oslo Process in February 2008, which succeeded in

advancing discussions on a draft convention text. The key outcome of that Conference was the Wellington Declaration, which reinforced the political commitment to negotiating a new convention. Negotiations for a new convention were finalised in Dublin where the Diplomatic Conference for the Adoption of a Convention on Cluster Munitions was agreed on 30 May 2008.

## **CHILDREN IN CONFLICT WITH THE LAW (articles 37, 39 and 40)**

### ***Juvenile justice***

#### **CRC/C/15/Add.2.16: Para 50**

The Committee reiterates its recommendation contained in paragraph 21, and further recommends that the State party:

- (a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's discussion day on the administration of juvenile justice in 1995 (CRC/C/69)
- (b) Ensure the availability of sufficient youth facilities so that all juveniles in conflict with the law are held separately from adults in pre- and post-trial detention
- (c) Undertake a systematic evaluation of the use of family group conferencing in juvenile justice.

## **THE ADMINISTRATION OF JUVENILE JUSTICE (article 40)**

### ***The rights of children alleged to have, or recognised as having, committed an offence***

8.12 In response to the new Evidence Act 2006, Police have developed guidelines for officers questioning young people, to ensure their rights are upheld. All officers have also been issued with an updated 'rights' card that advises young people of their rights. A new information sheet has also been prepared for the adult that the youth nominates to accompany them in any interview.

### ***Rehabilitation***

8.13 Youth units (see below for more information) are purpose-built to cater for the special needs of youth in prisons, providing a structured and supportive environment, which is normalised as much as is possible in a prison setting.

8.14 Prison Services has specific operating policies and procedures for staff working in a youth unit, which are subject to audit and review. The policies and procedures aim to reduce re-offending among youth by providing access to a range of educational, vocational, psychological and recreational activities.

- 8.15 Non-core programmes and activities (for example parenting skills, life skills, art, music) are available as appropriate to the prisoners' needs, local conditions and available funding. The units provide various vocational training across the sites such as joinery, motor mechanics, catering and other work skills. Units provide physical fitness training at no cost. Youth units meet the Department of Corrections responsibilities under the Education Act 1989 requiring all under 16-year olds to be involved in full-time education. Sixteen to 19 year-olds may also undertake secondary education if they so choose.

### ***Enhancing provision of Family Group Conferences***

- 8.16 Family Group Conferences are a crucial element of Child, Youth and Family practice. Strategies to enhance practice and performance in this area are ongoing.
- 8.17 In early 2007, reporting lines for the Family Group Conference Co-ordinators changed, bringing them into the mainstream management line. This was designed to enhance the youth justice practice and process by removing barriers to collaboration, enhancing joint decision-making and improving integration across staff. Changes are also underway to establish a central co-ordinating point for complaints from those participating in Family Group Conferences. This will provide a clearer picture of gaps in the system and opportunities for improvements.
- 8.18 Given that victims' voices are a central component of the Youth Justice Family Group Conference, it is important to ensure victims feel able to attend. The Children, Young Persons and Their Families Amendment Bill (No. 6) seeks greater consideration of victims' needs in the Family Group Conference process.

### ***Research***

- 8.19 New Zealand's second periodic report referred to planned pieces of research focusing on measuring outcomes for young offenders. The completed research [appended] is as follows:
- *Police Youth Diversion: Final Report*, This research describes Police processes in different New Zealand locations and analyses the effect of aspects such as offence characteristics, offending history and age on the type of diversion they receive (Family Group Conference, diversion or warning).
  - *The Impact of Police Responses to Young Offenders with a Particular Focus on Diversion*, This report provides a summary of research on Police diversion in New Zealand, including information about re-offending levels after different types of intervention, as well as interviews with young people about their experiences of Police diversion. Overall the report shows that intervening lower in the system leads to less re-offending.
  - *Diversionary Policing of Young People in New Zealand: A Restorative Approach*, This report gives figures for the number of young people exclusively dealt with by the Police, and the number referred to court or Family Group Conference, and focuses on warnings and developing a diversionary plan over a 10-year period.
  - *Achieving Effective Outcomes in Youth Justice*: This cross-departmental research project identified factors associated with effective outcomes in the youth justice system, and assessing the extent to which the goals of the Children, Young Persons and Their Families Act 1989 were being met. The research confirmed the importance of providing early interventions, building positive relationships in both the school and family environment; diverting young people from appearing in the Youth Court; keeping the

severity of outcomes at the lowest level possible; and undertaking family group conferences.

### **CHILDREN DEPRIVED OF THEIR LIBERTY, INCLUDING ANY FORM OF DETENTION, IMPRISONMENT OR PLACEMENT IN CUSTODIAL SETTINGS (article 37)**

- 8.20 Charges against those aged between 14 and 17 are laid in the Youth Court. Most young people will then be dealt with under the youth justice system, which cannot impose sentences of imprisonment. Only those under 17 who are charged with murder or manslaughter (they are automatically transferred to the adult jurisdiction) and others who have been transferred from the youth jurisdiction for other serious offending, can be imprisoned in facilities for adults. The majority of youth offenders under the age of 17 are accommodated under measures provided for in the Children, Young Persons and Their Families Act 1989.
- 8.21 Children and young people can be admitted to a Child, Youth and Family residence when they have been: arrested by the Police; remanded in custody by the Court; ordered by the Youth Court placing them in a residence for three months (Supervision with Residence Order); or sentenced to imprisonment. The majority (912) spent fewer than 99 days in a residence. The average length of stay for this group was 43 days.
- 8.22 The Department of Corrections runs four specialist units for young offenders within four men's prisons across the country. In general, all men under the age of 18 are held in these units, as are 18 and 19 year-old men who are vulnerable and do not pose a risk to the under-18 year olds. Where prisoners are at risk of self-harm, they are placed in an At-Risk Unit. Remand prisoners are also sometimes housed temporarily in other prisons where Court appearances require it.
- 8.23 Because there are so few women prisoners under the age of 18 in custody at any one time (there are typically fewer than five), there are no specialist facilities for young women prisoners. All women under the age of 18 are carefully assessed for vulnerability and either placed with the older women, or kept separate from the older women if the risk of mixing outweighs the isolating effects of separation.
- 8.24 As discussed earlier, New Zealand is a party to the UN Convention against Torture and therefore does not practise Capital Punishment.

### **CHILDREN IN SITUATIONS OF EXPLOITATION, ABUSE AND NEGLECT INCLUDING PHYSICAL AND PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION (articles 32 – 36 and 39)**

#### **CRC/C/15/Add.2.16: Para 48**

**The Committee recommends that the State party expedite the ongoing process of reviewing and strengthening legislation protecting all persons under the age of 18 who are employed, and encourages the State party to ratify ILO Convention No. 138.**

### ***Economic exploitation, including child labour (Article 32)***

- 8.25 New Zealand's existing policy and legislative framework provides for effective age thresholds for entry into safe work (see Part 1).

### **DRUG ABUSE (article 33)**

- 8.26 The Police have been active in developing and promoting drug education programmes aimed at school children, young people, their schools and parents/caregivers. Drug education programmes are subject to independent evaluation and then re-written to incorporate evaluation recommendations. The latest to be evaluated was the Choice (pre-user) programme evaluated by Victoria University in 2007.
- 8.27 The Christchurch Youth Drug Court offers an example of therapeutic jurisprudence which aims to facilitate better service delivery to young people to reduce offending, including treatment for their alcohol and other drug dependency. The scheme has:
- facilitated early identification of young offenders with alcohol and other drug dependency that contributes to their offending
  - reduced time delays in service delivery and facilitated immediacy of response
  - facilitated more effective inter-agency co-ordination
  - monitored young people more closely to facilitate their treatment process.
- 8.28 While the evaluation of the Christchurch Drug Court showed that re-offending was reduced, similar outcomes were achieved by young people subject to normal Youth Court processes.

### **SEXUAL EXPLOITATION AND SEXUAL ABUSE (article 34)**

#### ***Child prostitution.***

- 8.29 The Prostitution Reform Act 2003 decriminalised prostitution in New Zealand and continued and expanded the criminal sanctions for using children and young people in prostitution. Sections 20 – 23 of the Act prohibit under-18 year olds from being used in prostitution. Any offence in breach of these provisions is punishable by a term of imprisonment.
- 8.30 Child, Youth and Family works closely with the Police in situations where young people under 17 years are identified or suspected of engaging in underage prostitution, and they will address care and protection concerns.

#### ***Sexual abuse images on the internet***

- 8.31 The Censorship Compliance Unit in the Department of Internal Affairs proactively investigates the distribution of images of child sexual abuse on the internet. Information is provided to other jurisdictions through multilateral and bilateral arrangements for prosecuting offenders, and identifying and rescuing victims.

## **SALE, TRAFFICKING AND ABDUCTION (article 35)**

- 8.32 On 19 July 2002, New Zealand ratified the United Nations Convention against Transnational Organised Crime and its supplementary Protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol); and the Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol).
- 8.33 New Zealand enforcement authorities have yet to uncover any evidence or indication of people trafficking despite a number of investigations by both Police and Immigration officials. However, New Zealand continues to develop a plan of action to prevent people trafficking. It aims to develop and enhance international and domestic processes for prosecuting people traffickers and assisting trafficking victims. This work is being led by an inter-agency working group.
- 8.34 New Zealand has amended the Crimes Act 1961 to prohibit and criminalise sexual exploitation and related trafficking and to impose a maximum penalty of up to 20 years imprisonment, a fine not exceeding \$500,000, or both. Further provisions criminalise dealing in people under the age of 18 years for sexual exploitation, removal of body parts or engagement in forced labour. These provisions came into force on 14 June 2006.

## **CHILDREN LIVING OR WORKING ON THE STREET**

- 8.35 Although there are thought to be some homeless children on the street, there is very little evidence of the numbers concerned, and research has been commissioned recently on young people at risk of homelessness. Reception centres are available to protect children without a safe place to go. These centres provide safe, short-term accommodation for children and young people in the youth justice system and/or in need of care and protection, and are picked up by the Police after-hours and at the weekend. The centres supervise children and young people until their family is located and/or the home situation is made safe, or until a longer-term placement can be found.
- 8.36 Access to income for under-18 year olds may be available through income support, such as the Independent Youth Benefit, Invalids Benefit or Emergency Maintenance Benefit, if they meet the criteria.

## **FACTORS AND DIFFICULTIES**

- 8.37 Offending by young people is of great concern to New Zealanders, and there is perception that serious and violent offending by young people is increasing. Latest Ministry of Justice statistics on youth offending point to an increase in violent offending by 14 to 16 year olds but crime rates have decreased overall for this group. Despite the decrease in offending, crime rates remain too high and more can be done to bring offending rates down further. The government remains committed to ensuring our young people who come in contact with the justice system and their families, are supported to help them stop further re-offending, and to achieve positive outcomes for them and their families.

- 8.38 A collaborative approach is already underway across several government initiatives and projects to assist young people to turn their lives around. Improving outcomes for young people is, however, difficult and time-consuming work that requires significant, long-term investment and collaboration across a range of groups and government agencies. It needs to include action across all life stages and in all domains of the young person's life, including their family members and the wider community.
- 8.39 As New Zealand's population ages, there will be an increasing demand placed on the youth population to provide both economic and social support. Ensuring our young people are well-placed to contribute positively in the economic and social life of New Zealand is vital.
- 8.40 Issues of youth offending are linked to wider social concerns such as poverty, disengagement from school, inadequate housing, unemployment, lack of social and coping skills, family violence and substance abuse. By reducing risk factors and building protective factors to help children resist risky and anti-social behaviour, we are emphasising a strengths-based approach. This approach includes a range of services and activities. Some of these are family-focused, participatory (e.g. holiday activities, after-school activities, community projects, mentoring and volunteering), empowering, educative, and focused on problem-solving. Many of the interventions to address the risk factors and strengthen the protective factors are already happening through, for example, Family Start and Social Workers in Schools.