



# Convention on the Rights of the Child

Distr.: General  
21 July 2020

Original: English  
English, French and Spanish only

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## Committee on the Rights of the Child

### List of issues prior to submission of the sixth periodic report of New Zealand\*

1. The State party is requested to submit in writing the information requested below (21,200 words maximum), if possible before 30 June 2021. The replies should take into consideration the Committee's recommendations contained in its concluding observations (CRC/C/NZL/CO/5) adopted on 30 September 2016. The Committee may take up all aspects of children's rights set out in the Convention and the Optional Protocols thereto during the dialogue with the State party.

#### I. New developments

2. The Committee requests the State party to provide:

(a) Information on the adoption or reform of laws, policies and programmes and any other measures taken, including the creation or reform of institutions, that are significant for the implementation of the Convention, the Optional Protocol thereto on the involvement of children in armed conflict and the Optional Protocol thereto on the sale of children, child prostitution and child pornography;

(b) Information, as appropriate, on measures taken to ensure the protection of the rights of children in the context of the coronavirus disease (COVID-19) pandemic and to mitigate the adverse impacts of the pandemic, in view of the statement of the Committee of 8 April 2020 on the effects of the COVID-19 pandemic on children;

(c) Any other information that the State party considers relevant in this regard and that is not covered in the replies to the questions below, including information on obstacles and challenges faced.

3. The Committee also requests the State party to provide information on how a child rights-based approach is integrated into the planning, implementation, monitoring and evaluation of measures for achieving the Sustainable Development Goals, including with regard to child participation and data collection, and how such measures promote the realization of children's rights under the Convention and the Optional Protocols thereto.

#### II. Rights under the Convention and the Optional Protocols

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

###### Reservations, legislation, policy and strategy

4. Please provide information about the following:

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\* Adopted intersessionally by the pre-sessional working group on 6 July 2020.



(a) Steps taken with a view to withdrawing its general reservation and its reservations to articles 32 (2) and 37 (c) and to extending the application of the Convention to the Territory of Tokelau;

(b) Bringing domestic legislation relating to children into line with the Convention;

(c) The establishment of the Oranga Tamariki, Ministry for Children, in 2017;

(d) Adopting a comprehensive policy and strategy for the implementation of the Convention and the Optional Protocol thereto on the involvement of children in armed conflict and the Optional Protocol thereto on the sale of children, child prostitution and child pornography;

(e) The implementation of the child impact assessment best practice guidelines and making its use obligatory, including during the allocation of public resources.

#### **Allocation of resources**

5. Please inform the Committee about the “well-being budget” approach and on the measures taken to:

(a) Implement a tracking system covering all child-related expenditures in the elaboration of the State budget and to assess the impact of investments for children;

(b) Ensure public participation, including children, in the preparation of local and national budgets;

(c) Ensure that children, in particular those in vulnerable situations, are not affected by regressive measures taken in response to the COVID-19 pandemic and the potential consequences of the economic crisis triggered by those measures.

#### **Data collection**

6. Please inform the Committee about the following:

(a) The development and implementation of a comprehensive mechanism for collecting high-quality disaggregated data and an information system on all areas of the Convention;

(b) The use of the data and indicators collected by the ministries concerned for the formulation, monitoring and evaluation of policies, programmes and projects for implementing the Convention.

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

7. Please inform the Committee about the following:

(a) The measures taken to establish and implement regulations to ensure that the business sector complies with human rights, in particular children’s rights;

(b) The monitoring of child-related essential services provided by private enterprises;

(c) The consultations with civil society and children before the ratification of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and how the best interests of children were given due consideration;

(d) The adoption of corporate social responsibility parameters, including child rights due diligence, for corporations and other businesses subject to the jurisdiction of the State party.

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

8. Please inform the Committee of measures taken to define the minimum age of marriage at 18 years of age for both girls and boys and to extend the scope of the Children, Young Persons, and Their Families Act, 1989, to cover all persons under 18 years of age.

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

### Non-discrimination

9. Please provide information on the measures taken to:

(a) Decrease the gap in access to education and health care and protection services and to a minimum standard of living for Maori and Pasifika children and children with disabilities;

(b) Combat negative attitudes towards children in vulnerable situations, in particular Maori and Pasifika children, children belonging to ethnic minority groups, asylum-seeking, refugee and migrant children, children with disabilities, lesbian, bisexual, gay, transgender and intersex children and children living with persons belonging to those groups, including any affirmative action taken;

(c) Address cases of discrimination against children by applying disciplinary, administrative or penal sanctions, where appropriate.

### Best interests of the child

10. Please provide information about the measures taken to:

(a) Amend legislation to include an explicit requirement to comply with the best interests of the child;

(b) Ensure that the best interests of the child is consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions, in particular with regard to family law, social security, children in care, in particular Maori children, the sentencing of parents and the refugee status determination process;

(c) Develop procedures and criteria to provide guidance to all relevant professionals for determining the best interests of the child and giving it due weight as a primary consideration.

### Right to life

11. Please inform the Committee about measures taken to identify, prevent and address the root causes of child suicide, especially among Maori children.

### Respect for the views of the child

12. Please provide information on the measures taken to:

(a) Amend legislation, to ensure the child's right to be heard in cases affecting him or her;

(b) Develop toolkits for consulting with children on issues of national policy development affecting them and any results of such consultations.

## C. Civil rights and freedoms (arts. 7, 8 and 13–17)

### Right to identity

13. Please inform the Committee about the measures taken to ensure that all information about a child's biological parents is registered and filed and that children born through assisted reproductive technologies have access to information about their origins.

### Right to privacy

14. Please provide information about the measures taken to:

(a) Protect children's right to privacy in the use of the Approved Information Sharing Agreement for Improving Public Services for At-risk Children, adopted in 2015;

(b) Ensure that any legislation enabling the collection, storage and sharing of personal information about children and their families explicitly requires the consideration of the best interests of the child;

(c) Ensure that the privacy, human rights and ethics framework governing predictive risk modelling is made public and is referenced in all relevant legislation;

(d) Carry out a child rights impact assessment of the implementation of surveillance for law enforcement and intelligence-gathering purposes.

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

15. Please inform the Committee about:

(a) The coverage of Internet services for children living in rural areas;

(b) Measures taken to protect children, in particular those between 14 and 17 years of age, from harmful information and material, including advertisements.

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

#### **Freedom of the child from all forms of violence**

16. Please provide information on the following:

(a) Measures taken to eradicate the use of violence and abuse against children in all their forms in State care, including the use of restraints and detention, and to conduct background checks and provide adequate training to and monitoring of professionals and staff working with and for children;

(b) Investigations conducted into incidents of violence, including sexual abuse, and abuse against children, including in State care, the prosecutions carried out, the sentences delivered and the protection and redress provided to the children who are victims;

(c) Availability and use by children of child-friendly reporting channels and physical and psychological recovery and health services, including mental health services;

(d) Development of a comprehensive strategy to combat child abuse, including sexual abuse, and neglect, in all settings, with particular attention paid to Maori and Pasifika children and children with disabilities, and measures to involve children in the development of the strategy;

(e) Carrying out of a study on the extent, causes and nature of violence against children;

(f) Establishment of a national database on all cases of violence, including sexual abuse, against children in all settings;

(g) Results of the children's action plan under the Vulnerable Children Act, 2014, the violence intervention programme and the National Child Protection Alert System in preventing and addressing child abuse and neglect, as well as any other policies and programmes to combat child abuse and neglect;

(h) Allocation of sufficient human, technical and financial resources to front-line services to respond appropriately to cases of child abuse.

#### **Harmful practices**

17. Please provide information on the measures taken to:

(a) Stop child marriage and raise awareness of the negative effects of such marriages on the physical and mental health and well-being of children, especially girls, with a view to ending this harmful practice;

(b) Develop and implement a rights-based health-care protocol for intersex children to ensure that no child is subjected to unnecessary surgery or treatment and that the child's free, prior and informed consent is obtained for necessary interventions and educate medical and psychological professionals on the negative consequences of unnecessary medical interventions on intersex children.

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

**Family environment**

18. Please inform the Committee about the measures taken to provide support to parents and caregivers in the performance of their child-rearing responsibilities, including counselling, services for the treatment of alcohol or drug-related problems and, in particular with regard to the Maori and Pasifika populations, culturally appropriate services.

**Children deprived of a family environment**

19. Please provide information about the following:

(a) How the best interests of the child and children's views were taken into account in the reform of the care system and the impact of the reform on children's outcomes, in particular Maori children and children with disabilities;

(b) The implementation of the recommendations contained in the 2015 report of the Children's Commissioner, entitled "State of Care", with a view to addressing the overrepresentation of Maori children, including babies, in State care;

(c) The measures taken to improve the data collection on children's outcomes, including with regard to education, health and well-being, while they are in care and after they leave care, and any reports on the subject that have been produced;

(d) The outsourcing of State care to privately owned care service providers and the applicable regulations and monitoring mechanisms;

(e) The timeline for phasing out residences and placing children in family-based and community-based care.

**Adoption**

20. Please inform the Committee about the measures taken to amend the adoption legislation with a view to aligning it with the Convention, including the rights of children to non-discrimination, to have their best interests taken into consideration, to be heard and to preserve their identity.

**F. Children with disabilities (art. 23)**

21. Please provide information about the following:

(a) The disability action plan, 2019–2023, and in particular how it includes elements on the rights of children with disabilities, the reduction of poverty among those children, access for them to services and the results of the consultations carried out with children with disabilities during its development;

(b) Awareness-raising campaigns to combat the stigmatization and marginalization of children with disabilities, combat prejudice against them and promote a positive image of them;

(c) The results of the assessment of the district inspectors' investigations of violations of the rights of children with disabilities who were placed in compulsory residential care under the Intellectual Disability (Compulsory Care and Rehabilitation) Act, 2003;

(d) The prohibition of the sterilization of children with disabilities without their free, prior and informed consent.

**G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

**Health, including mental health, and health services**

22. Please provide information about the current extent of accessibility for children to adequate health services, including age-appropriate mental health services, across the State party's territory, and about measures taken to:

- (a) Reduce the prevalence of preventable and infectious diseases, especially for Maori and Pasifika children and children living in poverty;
- (b) Promote a healthy lifestyle for adolescents and reduce the prevalence of children exposed to secondhand smoke;
- (c) Provide sexual and reproductive health services and education to children in view of the still high rate of teenage pregnancy and the increasing rates of sexually transmitted diseases;
- (d) Increase the number of infants up to 6 months of age that are exclusively breastfed, in particular among Maori infants;
- (e) Provide mental health and counselling services to the children in Canterbury affected by the earthquakes and to the children affected by the mosque attacks in Christchurch.

### **Climate change**

23. Please inform the Committee to what extent the special vulnerabilities and needs and views of children, in particular Maori and Pasifika children and children living in low-income settings, are integrated into policies or programmes addressing the issues of climate change and disaster risk management.

### **Standard of living**

24. Taking into consideration the adoption of the Child Poverty Reduction Act, 2018, and the child and youth well-being strategy of 2019, please provide information about the following:

- (a) Establishing a national definition of poverty with a view to decreasing child poverty;
- (b) Increasing the resources allocated to tackling child poverty in the short, medium and long term;
- (c) Protecting budgetary lines for children in situations of poverty, even in situations of economic crisis, natural disasters or other emergencies;
- (d) The impact of the “Families package” and other initiatives to decrease child poverty, increase food security and provide safe and adequate housing to all children, noting the extreme shortage of affordable and accessible housing;
- (e) Taking into account the best interests of the child when investigating and prosecuting cases of benefits fraud in order to avoid further distress and higher level of poverty among children whose parents are prosecuted;
- (f) Undertaking consultations with families, children and children’s rights civil society organizations to inform them about the Act.

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

### **Education and early childhood care and development**

25. Please inform the Committee about the following:

- (a) The process of reviewing the Education Act, 1989, whether the curricula include teaching about human rights and children’s rights and the consultations carried out with children in order to hear their views in this regard;
- (b) Efforts to promote and foster the Maori language, cultural identity and history in education and to increase enrolment in Maori language classes;
- (c) Measures taken to ensure that children are enabled to have a say about decisions that affect them at school, including in school governance, and that their views are taken into account at all levels of education;
- (d) The protection afforded to the budget lines for education in situations of economic crisis, natural disasters or other emergencies;

- (e) Measures taken to provide inclusive education and ensure that inclusive education is given priority over placement in separate schools;
- (f) Providing individual support and all due attention to children with learning support needs;
- (g) Measures taken to decrease the gap between the educational outcomes of boys and girls;
- (h) The normative framework for alternative education and the monitoring mechanisms of alternative education institutions, including the newly established partnership schools;
- (i) Measures taken to end the overrepresentation of children with disabilities and Maori and Pasifika children in disciplinary processes in schools;
- (j) Anti-bullying programmes aimed at preventing the occurrence of bullying in schools;
- (k) Measures taken to provide early childhood care and education to children from lower socioeconomic backgrounds and to provide training on the Maori and Pasifika cultures for care workers.

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

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

26. Please provide information on the measures taken to:

- (a) Amend the Immigration Amendment Act, 2013, including the new section 9A on the meaning of mass arrival group, to ensure respect for the right of the child to family reunification;
- (b) Take into account children's best interests as a primary consideration in the issuance of permanent residence permits;
- (c) Ensure that children's views and best interests are taken into account in the refugee status determination process;
- (d) Strengthen its efforts to promote the integration of, and access to services for, asylum-seeking and refugee children, with particular attention given to children with disabilities.

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

27. Please inform the Committee about the measures adopted to take into account the importance of the Maori culture for Maori children's identity when developing legislation and policy. Please provide information about the development and implementation of a comprehensive, cross-sectorial strategy for the full enjoyment by Maori and Pasifika children of their rights, in close cooperation with them and their communities. Please also provide information about the measures taken to provide Maori children adopted by non-Maori parents with access to information about their cultural identity.

### **Economic exploitation, including child labour**

28. Please provide information about the measures taken to:

- (a) Set a definition of the minimum age of employment in line with international standards;
- (b) Amend the Health and Safety at Work Act, 2015, to ensure respect for children's rights under any type of contract, including casual contracts;
- (c) Include a provision in draft regulation number 54 to protect children under 18 years of age from hazardous work;
- (d) Establish minimum wage guarantees for working children under 16 years of age;

- (e) Raise awareness of the rights of working children.

#### **Administration of child justice**

29. Please provide information on the measures taken to:

- (a) Raise the minimum age of criminal responsibility for all offences and ensure the non-discriminatory, full application of the child justice system to all persons under 18 years of age at the time of the offence, in the light of the Committee's general comment No. 24 (2019) on children's rights in the child justice system;

- (b) Ensure that all children, both boys and girls, deprived of their liberty are separated from adults in all places of detention;

- (c) Avoid the detention of children in police custody, limit the use of all forms of detention to a measure of last resort, for the shortest period of time, and improve conditions of detention where its use is unavoidable;

- (d) Address the overrepresentation of Maori and Pasifika children and adolescents in the child justice system, as well as their overrepresentation among those who die by suicide in closed institutions.

### **J. Optional Protocol on the sale of children, child prostitution and child pornography**

30. Please inform the Committee about the measures taken to implement the recommendations contained in the Committee's concluding observations on the report submitted by the State party under article 12 (1) of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NZL/CO/1), in particular measures taken to:

- (a) Establish a comprehensive data-collection system covering all areas of the Optional Protocol;

- (b) Define and criminalize the sale of children, child prostitution and child pornography, including attempt and complicity to commit any of those acts, in accordance with articles 2 and 3 of the Optional Protocol;

- (c) Provide the Children's Commissioner and the national Human Rights Commission with the mandate to promote and monitor the implementation of the Optional Protocol, to receive complaints and to refer them for criminal investigation and prosecution;

- (d) Conduct a study on the nature and root causes of the sexual exploitation of children and any measures taken as a result of such a study for the prevention of all forms of exploitation as defined in the Optional Protocol;

- (e) Hold all legal persons liable, including corporations, for offences under the Optional Protocol;

- (f) Establish and exercise extraterritorial jurisdiction over all offences covered by the Optional Protocol;

- (g) Remove the limits on extradition for offences under the Optional Protocol;

- (h) Establish mechanisms and procedures for the early detection and identification of children who are victims of offences prohibited under the Optional Protocol and ensure that they have access to victim support services under the Victims' Rights Amendment Act, 2014, from the date that a complaint is made;

- (i) Enact the evidence amendment bill to allow children who are victims and/or witnesses to provide evidence in alternative ways;

- (j) Promptly investigate reports of offences covered by the Optional Protocol, to prosecute the accused, to punish the perpetrators and to provide adequate support and redress for children who are victims;

- (k) Prevent and combat the sale and sexual abuse and exploitation of children committed online.

## **K. Optional Protocol on the involvement of children in armed conflict**

31. Please inform the Committee about the measures taken to implement the recommendations contained in its concluding observations on the initial report of the State party under article 8 (1) of the Optional Protocol to the Convention on the involvement of children in armed conflict (CRC/C/OPAC/CO/2003/NZL) and its concluding observations on the fifth periodic report of the State party under the Convention (CRC/C/NZL/CO/5), in particular to:

- (a) Explicitly prohibit and criminalize the recruitment and use in hostilities of persons under 18 years of age by non-State armed groups;
- (b) Establish extraterritorial jurisdiction for crimes covered by the Optional Protocol on the involvement of children in armed conflict.

## **III. Statistical information and data**

32. The statistical information and disaggregated data provided by the State party should cover the period since the consideration of its previous reports on the implementation of the Convention and the Optional Protocols thereto. The data should be disaggregated by age, sex, type of disability, ethnic origin, national origin, geographical location and socioeconomic status.

33. The provision of tables setting out trends over the reporting period is recommended. Explanations of or comments on significant changes that have taken place over the reporting period should also be provided.

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

34. Please provide information on the budget lines regarding children and social sectors by indicating the amount allocated to each budget line and its proportion in terms of the total national budget.

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

35. Please provide data, disaggregated as described in paragraph 32 above, on the following:

- (a) The number and proportion of children under 18 years of age living in the State party;
- (b) The number of children under 18 years of age who were married in the State party or whose marriage abroad was recognized by the State party.

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

36. Please provide data, disaggregated as described in paragraph 32 above, on the number of cases of discrimination against children and the type of sanction delivered (disciplinary, administrative or penal).

37. Please provide data, disaggregated as described in paragraph 32 above, on the number of children under 18 years of age who died by suicide.

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

38. Please provide data, disaggregated as described in paragraph 32 above, on the following:

- (a) The number of reported cases of violence and abuse against children, including sexual abuse, the investigations conducted, the prosecutions carried out and the

sentences delivered, further disaggregated by type of offence, whether it occurred in State care and type of disability, if applicable;

(b) The number of intersex children who have undergone surgery or treatment related to their sexual characteristics.

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

39. Please provide data, disaggregated as described in paragraph 32 above, on the following:

(a) The number and proportion of families and children receiving economic and other types of support services, including counselling and services for the treatment of alcohol or drug-related problems;

(b) The number of children in institutional care and the average length of stay;

(c) The number of children in family-based and community-based care;

(d) The number of children adopted domestically and internationally.

**F. Children with disabilities (art. 23)**

40. Please provide data, disaggregated as described in paragraph 32 above, and further disaggregated by type of disability, on the number of:

(a) Children with disabilities;

(b) Children with disabilities living with their families;

(c) Children with disabilities living in institutional care and in family-based and community-based care;

(d) Children with disabilities who have been sterilized.

**G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

41. Please provide data, disaggregated as described in paragraph 32 above, on the following:

(a) The number of paediatric and mental health services and professionals specializing in young children and adolescents, further disaggregated by municipality;

(b) The number and proportion of children living below the poverty line and in extreme poverty;

(c) The number and proportion of teenage pregnancies;

(d) The incidence of sexually transmitted diseases among adolescents;

(e) The number and proportion of infants up to 6 months of age that are exclusively breastfed.

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

42. Please provide data, disaggregated as described in paragraph 32 above, on the number of:

(a) Children attending regular and partnership schools;

(b) Children with disabilities enrolled in inclusive education and in separate schools.