



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: New Zealand

1. The Committee considered the second periodic report of New Zealand (CRC/C/93/Add.4) at its 896th and 897th meetings (see CRC/C/SR.896 and 897), held on 18 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's comprehensive and well-written periodic report which included a detailed description of the follow-up to the previous recommendations and gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation sent by the State party and welcomes the dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

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

3. The Committee welcomes the State party's ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the ILO in 2001, its ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2002, its accession to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in 1998 and its ratification of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and On Their Destruction in 1999.

C. Principal areas of concern and recommendations

1. General measures of implementation

Committee's previous recommendations

4. While acknowledging the attention that the State party has given to the implementation of the recommendations contained in the Committee's previous concluding observations (CRC/C/15/Add.71) adopted following the consideration of the State party's initial report (CRC/C/28/Add.3), the Committee notes with concern that some recommendations have been insufficiently addressed. The Committee is particularly concerned about the recommendations relating to the harmonization of domestic legislation with the Convention, including the age of criminal responsibility and minimum age of employment (para. 23), and the prohibition of corporal punishment and the establishment of mechanisms to ensure the recovery of victims of ill-treatment and abuse (para. 29).

5. The Committee reiterates those concerns and urges the State party to make sustained efforts to address those recommendations contained in the concluding observations on the initial report that have not been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

Reservations

6. While noting that the State party is considering withdrawing its reservations to the Convention, the Committee is disappointed by the slow pace of this process and that it has not yet resulted in the withdrawal of a reservation. The Committee remains very concerned at the State party's general reservation and the reservations specific to articles 32, paragraph 2 and 37 (c).

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); and

(b) Continue its discussions with the people of Tokelau with a view to extending the application of the Convention to their territory.

Legislation

8. Noting that the State party has undertaken a general review of its legislation to ensure its compatibility with the 1993 Human Rights Act (Consistency 2000), the Committee regrets that this did not include a comprehensive review of its legislation affecting children and that domestic legislation does not fully conform to the principles and provisions of the Convention.

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 harmonize its legislation with the principles and provisions of the Convention.

Coordination and national plans of action

10. The Committee welcomes the adoption of New Zealand's Agenda for Children and the Youth Development Strategy in 2002. However, the Committee shares the State party's concern that coordination of policies and services for children is still insufficient.

11. **The Committee recommends that the State party establish a permanent mechanism to coordinate 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 coordinated.**

Independent monitoring

12. The Committee notes the efforts to strengthen the Office of the Commissioner for Children and welcomes the Office's activities for children, as well as the activities of the National Human Rights Commission. However, the Committee is concerned about the possibility of duplication of activities between the National Human Rights Commission and the Office of the Commissioner for Children, and that the latter does not have sufficient resources to carry out its activities effectively.

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.**

Resources for children

14. The Committee is concerned that despite the persistence of poverty, the State party has not undertaken a comprehensive study of the impact of its economic reform policies on children, as previously recommended. The Committee is further concerned about the lack of available data on budgetary allocations for children.

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.**

Data collection

16. The Committee is concerned at the lack of consistency between the nature of the data collected and the principles and provisions of the Convention.

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.**

Dissemination and training

18. The Committee is concerned that children and the public at large, as well as all groups of professionals working with and for children, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

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.**

2. Definition of the child

20. The Committee notes with concern that the minimum age of criminal responsibility of 10 years is too low, that all persons under 18 in conflict with the law are not afforded special protection and that there is no minimum age of employment.

21. **The Committee recommends that the State party review the age limits set by different legislation affecting children to ensure its conformity with the principles and provisions of the Convention. The Committee also specifically recommends that the State party:**

(a) **Raise the minimum age of criminal responsibility to an internationally acceptable level and ensure that it applies for all criminal offences;**

(b) **Extend the Children, Young Persons and Their Families Act of 1989 to all persons under the age of 18;**

(c) **Set a minimum age or minimum ages of admission to employment.**

3. General principles

Non-discrimination

22. The Committee is concerned that, as acknowledged by the State party, discrimination persists against vulnerable groups of children such as Maori children, minority children, children with disabilities and non-citizens. The Committee is particularly concerned at the comparatively low indicators for Maori, Pacific Island and Asian children.

23. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

24. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

Respect for the views of the child

25. The Committee notes with appreciation the efforts to include children in decision-making processes at the national and local levels, for instance through the Youth Parliament. However, it is concerned that the right of individual children to be heard and have their views taken into account in administrative or judicial proceedings affecting them is not systematically included in legislation and regulations.

26. **The Committee recommends that the State party undertake a review of legislation and regulations affecting children, including proposed legislation such as the Care of Children Bill, to ensure that they appropriately integrate and apply the right of each child to be heard and have his or her views taken into account in accordance with article 12.**

4. Civil rights and freedoms

Violence, including ill-treatment

27. The Committee shares the State party's concern about the prevalence of child abuse, and notes with regret that services aimed at preventing abuse and providing assistance with recovery do not have sufficient resources and are insufficiently coordinated.

28. **The Committee recommends that the State party:**

(a) **Expand services and programmes aimed at assisting victims of abuse, and ensure that they are provided in a child-sensitive manner which respects the privacy of the victim;**

(b) Increase programmes and services aimed at the prevention of child abuse in the home, schools and institutions and ensure that there are sufficient numbers of adequately qualified and trained staff to provide these services;

(c) Continue to improve the coordination of services for vulnerable families and victims of abuse.

Corporal punishment

29. The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the Government's public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family and which should be accompanied by awareness-raising campaigns on the law and on children's right to protection.

30. The Committee recommends that the State party:

(a) Amend legislation to prohibit corporal punishment in the home;

(b) Strengthen public education campaigns and activities aimed at promoting positive, non-violent forms of discipline and respect for children's right to human dignity and physical integrity, while raising awareness about the negative consequences of corporal punishment.

5. Family environment and alternative care

Alternative care

31. The Committee welcomes the State party's initiatives to strengthen the system of child protection and alternative care through, inter alia, the adoption of the Social Work Registration Act (2003) and the establishment of grievance panels in residential institutions. Nevertheless, the Committee remains concerned that the Department of Child, Youth and Family Services does not have adequate financial and human resources to carry out its responsibilities effectively. While welcoming the additional written answers provided by the State party on the issue of police powers of search and seizure, the Committee is also concerned about reports of children in alternative care being subject to an increasing number of searches of their person and their belongings.

32. The Committee recommends that the State party continue its efforts to strengthen the system of child protection by:

(a) Improving the qualifications of social workers and personnel working in the child protection system and enacting measures to retain qualified and specialized staff;

(b) Taking effective measures to improve coordination between the Department of Child, Youth and Family Services and organizations delivering services to children;

(c) **Increasing the financial resources allocated to alternative care, while ensuring that institutional care is used only as a last resort;**

(d) **Strengthening efforts to guarantee that all children placed in care have a periodic review of their treatment and all circumstances relative to their placement, in accordance with article 25 of the Convention.**

Adoption

33. The Committee welcomes the State party's intention to reform its legislation on adoption, although it is concerned that planned amendments do not fully conform to the principles and provisions of the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

34. **In considering the reform of its legislation on adoption, the Committee recommends that the State party pay particular attention to article 12 and the right of children to express their views and have those views be given due weight in accordance with the age and maturity of the child. In particular, the Committee recommends that the State party:**

(a) **Require that children of a certain age consent to their adoption;**

(b) **Ensure the right of adopted children to access, as far as possible, information about their biological parents; and**

(c) **Ensure the right of children, as far as possible, to maintain one of their original first names.**

6. Basic health and welfare

35. The Committee welcomes the adoption of the Child Health Strategy in 1998. However, the Committee is concerned that immunization coverage is not universal and at the relatively high rates of infant mortality and injuries among children. The Committee also notes with concern that child health indicators are generally lower among the Maori population.

36. **The Committee recommends that the State party:**

(a) **Allocate sufficient human and financial resources to implement the Child Health Strategy;**

(b) **Take all necessary measures to ensure universal immunization coverage and develop preventive health care and guidance for parents and families that effectively address the relatively high rates of infant mortality and injuries;**

(c) **Take all necessary measures to address disparities in health indicators between ethnic communities, in particular the Maori population.**

Adolescent health

37. The Committee shares the State party's concern about the high rates of youth suicide, teenage pregnancies and alcohol abuse among adolescents and the insufficient level of youth mental health services, particularly in rural areas and for Maori children and children in residential institutions.

38. **The Committee recommends that the State party:**

(a) **Take all necessary measures to address youth suicide, especially among Maori youth, inter alia by strengthening the Youth Suicide Prevention Programme;**

(b) **Undertake effective measures to reduce the rate of teenage pregnancies through, inter alia, making health education, including sex education, part of the school curriculum, and strengthening the campaign of information on the use of contraceptives;**

(c) **Undertake effective preventive and other measures to address the rise in alcohol consumption by adolescents and increase the availability and accessibility of counselling and support services, in particular for Maori children;**

(d) **Strengthen mental health and counselling services, ensuring that they are accessible to, and appropriate for, all adolescents, including Maori children and those in rural areas and in residential institutions.**

Children with disabilities

39. The Committee is concerned that children with disabilities are not fully integrated into all aspects of society and that services, in particular in the education system, are often difficult for families of children with disabilities to access.

40. **The Committee recommends that the State party ensure that adequate human and financial resources are allocated to implement the New Zealand Disability Strategy, in particular those aspects relating to the integration of children with disabilities into mainstream education and other aspects of society.**

Standard of living

41. The Committee is concerned that a significant proportion of children in the State party live in poverty and that single-parent families headed by women, as well as Maori and Pacific Island families, are disproportionately affected.

42. **In accordance with article 27, paragraph 3, of the Convention, the Committee recommends that the State party take appropriate measures to assist parents, in particular single parents, and others responsible for the child to implement the child's right to an adequate standard of living. In this regard, the Committee recommends that the State party ensure that assistance provided to Maori and Pacific Island families respects and supports their traditional extended family structures.**

7. Education, leisure and cultural activities

43. The Committee welcomes the development of bilingual education for Maori; however, it notes with concern the persistent disparities in enrolment and dropout rates among children of different ethnic groups. The Committee is also concerned that the policy on exclusions, as well as increasing hidden costs of education are limiting access to education, particularly for Maori children, pregnant girls, children with special educational needs, lower-income families, non-citizens and new immigrants.

44. **The Committee recommends that the State party:**

(a) **Ensure that all children in the State party have access to free primary education;**

(b) **Enforce legislation on compulsory education and prohibit exclusions on arbitrary grounds such as pregnancy, and ensure that students of the age of compulsory education who have legitimately been excluded from a school are enrolled elsewhere;**

(c) **Take effective measures to address disparities in enrolment and dropout rates between ethnic groups, including by strengthening programmes for bilingual education;**

(d) **Take all necessary measures, including the provision of quality counselling programmes in schools, to address behavioural problems of students while respecting their right to privacy.**

8. Special protection measures

Refugee children

45. The Committee takes note of the services provided by the State party to ensure the integration of and equal opportunities for refugee children; however, it is concerned that activities undertaken in this regard may not be entirely effective in achieving the stated objective of integration.

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.**

Economic exploitation of children

47. The Committee is concerned that the protection of persons under 18 in employment does not fully conform to the principles and provisions of the Convention, and it reiterates its concern (see para. 20 above) about the lack of a minimum age of admission to employment.

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.**

Juvenile justice

49. While noting the Youth Offending Strategy and the Task Force on Youth Offenders and the use of family group conferencing, the Committee reiterates its concern (see para. 20 above) about the low age of criminal responsibility and that special protection is not accorded to all persons under 18 in conflict with the law. The Committee is further concerned that juvenile offenders, both female and male, are not separated from adult offenders, and in some cases they may even be detained in police cells for several months.

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; and**

(c) **Undertake a systematic evaluation of the use of family group conferencing in juvenile justice.**

9. Optional Protocols

51. The Committee notes that the State party has signed but not ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

52. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

10. Dissemination of documents

53. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

11. Next report

54. In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 5 November 2008, i.e. 18 months before the due date for the fourth periodic report. The report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.
