

Reporting on the Children’s Convention: summary of List of issues prior to submission of the sixth periodic report of New Zealand.

On 21 July 2020, the United Nations Committee on the Rights of the Child issued a list of children’s rights issues in Aotearoa New Zealand for the Government to respond to. The Government’s response is due by June 2021. This will be Aotearoa New Zealand’s 6th periodic report on the United Nations Convention on the Rights of the Child (the Children’s Convention).

Reporting dates

It is not clear as yet what impact the COVID-19 pandemic will have on the way the UN Committee operates or the reporting timetable. For now, the reporting timetable we are working to remains:

- June 2021 – Government report is due.
- 1 September 2021 – supplementary information and Civil Society’s response to the Government report is due.
- October 2021 – pre-session, where the Committee asks Civil Society representatives questions to prepare for examining Aotearoa New Zealand’s progress on children’s rights.
- January 2022 – UN Committee meets with Government delegation and examines Aotearoa New Zealand’s progress on children’s rights. Civil Society attend as observers.

The Children’s Rights Alliance has developed a summary of the list of issues raised by the UN Committee, which is below.

Reporting on the Children’s Convention: LOIPR - what children’s rights issues has Government been asked to report on in 2021?

Taking into account the UN Committee’s previous recommendations, the Government has been asked to provide information under three headings:

- New developments
- Rights under the Convention and its Optional Protocols
- Statistical information and data.

I New Developments

The Committee has asked for information on:

- any laws, policies, programmes or other measures taken (including the creation or reform of institutions), which help to implement the Convention.
- What was done to protect children’s rights during the COVID-19 pandemic and what is being done to mitigate adverse impacts of the pandemic on children.
- any other relevant information on changes for children over the last 5 years, including on the obstacles and challenges faced in implementing the Convention.
- how a children’s rights approach is being used in work towards achieving the Sustainable Development Goals.

II Rights under the Convention and its Optional Protocols

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

Government has been asked for information on what it has done to implement the Convention, with specific reference to:

- reservations, legislation, policy and strategy - removal of reservations, aligning domestic laws with the Convention, establishing Oranga Tamariki/Ministry for Children, and implementation of the Child Impact Assessment: Best Practice Guideline;
- allocation of resources – tracking expenditure on children and assessing its impact
- data collection for implementing the Convention
- children’s rights and the business sector

B. Definition of the child (art. 1)

In this section the Committee wants to check that everyone under 18 is covered by the Convention; that legal definitions of childhood do not result in children losing their rights. The Committee has asked for information on

- the minimum age of marriage, for boys and girls
- extension of the Oranga Tamariki Act 1989 to cover all those aged under 18

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

The Committee has asked for information on the measures taken in relation to all four of the Convention's general principles, as follows:

- *Non – discrimination* – reducing gaps in access to services and standard of living; combatting negative attitudes towards certain children; use of prosecutions and sanctions in cases of discrimination
- *Best interests* – inclusion of best interests principle in legislation; consistent interpretation and application of the child's best interests; procedures and criteria for determining and applying best interests
- *Right to life* – measures to identify, prevent and address root causes of child suicide
- *Respect for the views of the child* – legislating for child's right to be heard in cases affecting them; toolkits for consulting with children on national policy development.

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

In relation to civil rights and freedoms, the UN Committee has requested information on:

- registration of and access to information about the child's biological parents, including children born through assisted reproductive technologies
- children's right to privacy and their best interests in information collection, sharing and storage, as well as children's rights in relation to surveillance law and intelligence gathering
- access to appropriate information – internet in rural areas; protection from harmful information and material, especially for older children aged 14-17.

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

The Committee has asked for a wide range of information about violence against children, much of it aimed at assessing what action Government has taken to address the Committee's previous recommendations. The Committee's request covers:

- violence and abuse of children in State care, including use of restraint and detention
- investigations and prosecutions of violence against children, and redress provided to child victims
- child-friendly reporting channels, recovery and health services, including mental health services
- development of a comprehensive strategy to combat child abuse and children's involvement in that strategy
- a study of the extent, causes and nature of violence against children
- a national database of violence against children, in all settings

- results of the Vulnerable Children’s Action Plan, the Violence Intervention Programme, National Child Protection Alert System
- resourcing of front line services to respond to child abuse cases.

The Committee has also asked for information about the following harmful practices:

- child marriages
- 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))

The Government has been asked to inform the Committee about:

- support provided to parents and caregivers raising children, including provision of culturally appropriate services
- children deprived of a family environment
 - how children’s best interests and views were taken into account in reform of the care system and the impact of the reform on children’s outcomes, especially Maori children and disabled children
 - over-representation of Maori children in State care, including babies
 - data collection on outcomes for children in care, while in care and after they leave care
 - regulation and monitoring of private care service providers
 - the timeline for phasing out residences and placing children in families and small community-based options
- aligning adoption legislation with the Convention.

F. Children with disabilities (art. 23)

The Committee has asked for information about:

- how the rights of children are included in the Disability Action Plan 2019-2023, especially poverty among disabled children, their access to services and whether they had a say in the Action Plan’s development
- awareness raising campaigns to combat stigmatisation, marginalisation and prejudice against children with disabilities
- violations of the rights of disabled children placed in compulsory care under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.
- prohibition of the sterilization of disabled children without their consent.

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

Government has been asked to provide information on:

- Children’s access to adequate health services, across the country, including age-appropriate mental health services, and what has been done to
 - Reduce the prevalence of preventable and infectious diseases
 - Promote a healthy lifestyle for adolescents
 - Reduce children’s exposure to second-hand smoke
 - Provide sexual and reproductive health services and education, in light of teen pregnancy rate and increasing rates of sexually transmitted diseases
 - Increase the numbers of infants exclusively breastfed up to 6 months of age, particularly Maori infants
 - Provide mental health and counselling services to children in Canterbury, following the earthquakes and Mosque attacks.
- How policies and programmes to address climate change issues and disaster risk management factor in children’s needs and views, particularly Maori and Pasifika children and children in low-income settings.
- Standard of living and, given the adoption of the Child Poverty Reduction Act 2018 and the Child and Youth Wellbeing Strategy, in particular:
 - The establishment of a national definition of poverty
 - Increased resources to tackle child poverty in the short, medium and long-term
 - Protection of budget lines for children in poverty, even in times of economic crisis, natural disasters or other emergencies
 - Impact of initiatives, such as the “Families Package”, on
 - decreasing child poverty
 - increasing food security
 - providing safe, adequate housing to all children
 - how the child’s best interests are considered in investigating and prosecuting benefit fraud
 - consultations with families, children, and children’s rights civil society organisations to inform the Child Poverty Reduction Act 2018.

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

Under this cluster heading, the UN Committee has focussed on education and early childhood care and development and has asked about:

- the Education Act 1989 review process, whether the curricula includes teaching human rights and children’s rights, and what consultation with children was carried out
- the promotion of Maori language, cultural identity and history in education and increased enrolment in Maori language classes
- how children’s views are taken into account at school and in all levels of education
- protection of Budget lines for education in situations of economic crisis, natural disasters and other emergencies
- provision of inclusive education
- provision of individual support to children with learning support needs

- decreasing the gap between educational outcomes of boys and girls
- a normative framework and monitoring of alternative education
- ending the overrepresentation of children with disabilities and Maori and Pasifika children in disciplinary processes
- anti-bullying programmes
- provision of early childhood care and education to children from low socioeconomic backgrounds, and training of carers on Maori and Pasifika cultures.

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

This section of the LOIPR covers a range of children’s issues.

Asylum-seeking, refugee and migrant children,

The Government has been asked to provide information to the UN Committee on the measures taken to

- Ensure respect for the child’s right to family reunification by amending the Immigration (Mass Arrivals) Amendment Act 2013
- Make children’s best interests a primary consideration in the granting of permanent residency
- Take children’s views and best interests into account in determining refugee status
- Promote the integration of and access to services by asylum seeking and refugee children, particularly those with disabilities.

Children belonging to minority or indigenous groups

The Committee has asked the Government to inform it about

- Measures to take into account the importance of Maori culture for Maori children’s identity when developing legislation and policy.
- The development and implementation of a comprehensive, cross-sectorial strategy for the full enjoyment of the rights of Maori and Pasifika children, in close co-operation with them and their communities. (The Committee recommended such a strategy development in 2016)
- Access to information about their cultural identity for Maori children who are adopted by non-Maori parents.

Economic exploitation, including child labour

Government has been asked for information on the measures taken to

- Define a minimum age for admission to employment in line with international standards

- Amend the Health and Safety at Work Act to ensure respect for children’s rights
- Protect children under 18 from hazardous work
- Establish minimum wage guarantees for working children under 16 years of age
- Raise awareness of working children’s rights.

Administration of child justice

In relation to child justice (formerly youth or juvenile justice – see the Committee’s recently released general comment No.24 on children’s rights in the child justice system) the Committee has requested information on:

- Raising the minimum age of criminal responsibility and ensuring the child justice system applies to everyone under the age of 18 at the time of offending
- Separation of all children, male and female, from adults in places of detention
- Detention in Police custody
- Overrepresentation of Maori and Pasifika children and adolescents in the child justice system.

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

The Committee has asked for information on what Government has done to implement its 2016 recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography. In particular it has asked for information on what has been done to:

- Establish a data collection system covering all areas of the Optional Protocol
- Define and criminalise the sale of children, child prostitution and child pornography
- Provide the Children’s Commissioner and the Human Rights Commission with the mandate to
 - Promote and monitor implementation of the Optional Protocol
 - Refer complaints for criminal investigation and prosecution
- Study
 - the nature and root causes of sexual exploitation of children
 - the measures taken to prevent all forms of exploitation under the Optional Protocol
- Hold all legal persons (including companies) liable for offences under the Optional Protocol
- Establish and exercise extraterritorial jurisdiction over all offences covered by the Optional Protocol
- Remove limits on extradition for offences under the Optional Protocol
- Establish mechanisms and procedures for early detection and identification of child victims under the Optional Protocol and ensure they have access to victim support
- Amend the law to allow child victims and/or witnesses to provide evidence in alternative ways

- Promptly investigate and prosecute reports of offences covered by the Optional Protocol, providing support and redress for child victims.
- Prevent and combat the sale, sexual abuse, and exploitation of children online.

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

The Committee has asked for information about what has been done to implement its previous recommendations on the Optional Protocol on the involvement of children in armed conflict. In particular it has asked for information on what has been done to:

- Prohibit and criminalise recruitment and use in hostilities of persons under 18 years of age by non-State armed groups
- Establish extraterritorial jurisdiction for crimes covered by the Optional Protocol.

III. Statistical information and data

The third set of information the Committee has requested Government provide is statistical information and data. It has asked that this information and data be disaggregated by age, sex, type of disability, ethnic origin, national origin, geographical location and socioeconomic status, that it cover the period since 2016 and that explanation or comments on significant changes over the reporting period are provided.

The statistical information and data the Committee has asked for covers:

General measures of implementation

- Information on the budget lines regarding children and social sectors, indicating the amount and the proportion allocated to each budget line in terms of the total national budget;

Definition of the child

- The number and proportion of children under 18 years of age living in New Zealand;
- The number of children under 18 years of age who were married in New Zealand or whose marriage abroad was recognized by New Zealand;

General principles

- The number of cases of discrimination against children and the type of sanction delivered (disciplinary, administrative or penal);
- The number of children under 18 years of age who died by suicide;

Violence against children

- The number of reported cases of violence and abuse of children, including sexual abuse, the investigations conducted, the prosecutions carried-out and sentences delivered. The data should be further disaggregated by type of offence, whether it occurred in State care, and if the child had a disability;
- The number of intersex children who have undergone surgery or treatment related to their sexual characteristics;

Family environment and alternative care

- The number and proportion of families and children receiving economic and other types of support services, including counselling, services for the treatment of alcohol or drug-related problems;
- The number of children in institutional care and the average number of days of stay;
- The number of children in family- and community-based care;
- The number of children adopted domestically and internationally;

Children with disabilities

- Disaggregated by type of disability, the number of:
 - Children with disabilities;
 - Children with disabilities living with their families;
 - Children with disabilities living in institutional care and in family- and community-based care;
 - Children with disabilities who have been sterilized.

Basic health and welfare

- The number of paediatric and mental health services and professionals specialized in young children and adolescents, disaggregated by municipality;
- The number and proportion of children living below the poverty line and in extreme poverty;
- The number and proportion of teenage pregnancies;
- The extent of sexually transmitted diseases among adolescents;
- The number and proportion of infants up to 6 months of age that are exclusively breastfed.

Education, leisure and cultural activities

- Children attending regular and partnership schools;
- Children with disabilities enrolled in inclusive education and in separate schools;