

**ADVANCE UNEDITED VERSION**

Distr.: General  
6 February 2023

Original: English  
Arabic, Chinese, English, French,  
Russian and Spanish only

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**Committee on the Rights of the Child****Concluding observations on the sixth periodic report of New Zealand\*****I. Introduction**

1. The Committee considered the sixth report of New Zealand<sup>1</sup> at its 2686<sup>th</sup> and 2687<sup>th</sup> meetings,<sup>2</sup> held on 26 and 27 January 2023, and adopted the present concluding observations at its 2698<sup>th</sup> meeting, held on 3 February 2023.

2. The Committee welcomes the submission of the sixth report of the State party, under the simplified reporting procedure,<sup>3</sup> which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses its appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

**II. Follow-up measures taken and progress achieved by the State party**

3. The Committee welcomes the progress achieved by the State party in various areas, including the ratification in 2022 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure as well as the various legislative, institutional and policy measures taken by the State party to implement the Convention, including: the establishment of a new Ministry for Children (Oranga Tamariki) in 2017, the adoption of the Children, Young Persons, and Their Families (Oranga Tamariki) Act 2017, enhancing the child protection and child justice systems, the Children's Amendment Act 2018, enabling the development of the Child and Youth Wellbeing Strategy, published in 2019, and the adoption of the Child Poverty Reduction Act 2018, establishing measurement and reporting indicators for child poverty, also allocating additional funding for social support to children.

**III. Main areas of concern and recommendations**

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: non-discrimination (para. 16), violence against children (para. 24), children deprived of a family environment (para. 28),

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\* Adopted by the Committee at its ninety second session (16 January – 3 February 2023).

<sup>1</sup> CRC/C/NZL/6.

<sup>2</sup> See CRC/C/SR. 2448 and 2449.

<sup>3</sup> CRC/C/NZL/QPR/6.

children with disabilities (para. 31), standard of living (para. 35), children belonging to minority or indigenous groups (para. 40) and administration of child justice (para. 43).

5. **The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention and the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography throughout the process of implementing the 2030 Agenda for Sustainable Development. It urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children. It further recommends the dissemination of information about the Optional Protocol on a communications procedure to children and persons working with and for them, and to actively promote access to justice for children.**

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

### **Reservations and declarations**

6. **The Committee, in line with its previous recommendations<sup>4</sup> and in the light of paragraph 5 of the Vienna Declaration and Programme of Action, urges the State party to withdraw its reservations, including to articles 32(2) and 37(c) of the Convention.**

### **Legislation**

7. **While welcoming the requirement in the Oranga Tamariki Act 1989 and the Children's Act 2014 that any person who exercises powers under these Acts be guided by the Convention, the Committee recommends that the State party:**

- (a) **Fully incorporate the Convention into the domestic law;**
- (b) **Finalize development of the Children's Rights and Wellbeing Hub to strengthen training on the Convention and ensure its consistent application throughout the State party.**

### **Comprehensive policy and strategy**

8. **While welcoming the Child and Youth Wellbeing Strategy (2019), and the consultative manner in which it was developed, the Committee recommends that the State party:**

- (a) **Review the Strategy to ensure it provides a comprehensive implementation framework establishing the priorities, targets and respective responsibilities for the overall realization of the Convention and its Optional Protocols, in line with its commitments made under the State party's third cycle of its universal periodic review (A/HRC/41/4, para. 122.147);**
- (b) **In line with its obligations under the Children's Act 2014, continue to involve the participation of children in the planned triennial reviews of the Strategy;**
- (c) **Make compulsory the application of the Child Impact Assessment Tool in the development of policy and legislation affecting children, ensuring that government officials, legislators, and non-government service providers are trained on its use.**

### **Coordination**

9. **The Committee recommends that the State party ensure the Children's Convention Deputy Chief Executives Group possesses the authority and resources it requires to fulfil its obligations to co-ordinate and lead the whole-of-government implementation of the Convention, including by building the capacity of officials to integrate a child rights approach in policy making and legislative development.**

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<sup>4</sup> CRC/C/NZL/CO/5, para. 5.

### Allocation of resources

10. Whilst noting with appreciation the prioritization of indicators aimed at measuring child wellbeing in the 2023 Budget Policy Statement, the Committee recalls its general comment No. 19 (2016) on public budgeting for the realization of children's rights, and recommends that the State party:

(a) Conduct a comprehensive assessment of the budget needs of areas concerning children in addition to those aimed at reducing child poverty and allocate adequate budgetary resources, in accordance with article 4 of the Convention, for the implementation of children's rights under all areas of the Convention;

(b) Strengthen the child rights-based approach in the elaboration of the State budget, including through (i) participatory budgeting processes that are accessible to children and all interested parties, (ii) publishing the results of the Treasury's tracking system on the allocation and use of resources for children through the annual budget process, and, (iii) assessing how investments in any sector may serve the best interests of the child;

(c) Define budgetary lines for all children, with special attention given to those in disadvantaged or vulnerable situations that may require special measures, such as Māori and Pasifika children, children in out-of-family care, and children with disabilities, and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.

### Data collection

11. The Committee welcomes the legislative obligations to collect and report data on outcomes for children. Recalling its general comment No. 5 (2003) on general measures of implementation, the Committee recommends that the State party consider under its Data Investment Plan strengthening its data collection system to cover all areas of the Convention and its Optional Protocols, ensuring it is disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background in order to facilitate analysis of the situation of all children in the State party, particularly those in situations of vulnerability.

### Independent Monitoring

12. The Committee notes the removal of the complaints handling and investigation functions of the Children's Commissioner as a result of the coming into force of the Children and Young People's Commission Act 2022 and the Oversight of the Oranga Tamariki System Act 2022, effectively replacing the Children's Commissioner with the Children and Young People's Commission and mandating the Ombudsman to receive complaints and undertake investigations on child rights violations. The Committee recommends that the State party:

(a) Ensure that the Children and Young People's Commission, when implemented, has sufficient human, technical and financial resources to monitor the implementation of the Convention and its three Optional Protocols, has the mandate to receive, investigate and process complaints from children or concerned individuals or organisations, and that its independence is guaranteed, ensuring that its mandate can be fulfilled autonomously in full compliance with the Paris Principles;

(b) Streamline and facilitate children's ability to report violations of all their rights guaranteed to them under the Convention.

### Children's rights and the business sector

13. Recalling its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and to the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, the Committee recommends that the State party:

(a) **Ensure the legal accountability of New Zealand companies and their subsidiaries for violations of children’s rights, including in relation to the environment and health, committed within the State party or overseas by businesses domiciled in its territory, and establish mechanisms for the investigation and redress of such abuses;**

(b) **In line with its commitments made during its third cycle of its universal periodic review (A/HRC/41/4, para. 122.57), develop and implement a national action plan on business and human rights, in addition to the responsible business conduct strategy, through a multisectoral consultation with a focus on children’s rights;**

(c) **Require companies to undertake assessments, consultations, and full public disclosure of the environmental, health-related and children’s rights impacts of their business activities and their plans to address such impacts.**

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

14. **While noting the 2018 amendment to the Marriage Act 1955 requires judicial approval for the legal recognition of a marriage involving a 16 or 17-year-old child, the Committee recommends that the State party eliminate any exception to the minimum age of marriage of 18 years for girls and boys.**

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

### **Non-discrimination**

15. **The Committee is deeply concerned that discrimination persists against children in situations of vulnerability, including Māori and Pasifika children, children in out-of-family care and children with disabilities, noting especially their restricted ability to benefit from basic services including education, health, and protection, and to enjoy an adequate standard of living. It further notes with deep concern their exposure to higher risks of suicide, and of experiencing sexual and domestic violence, school bullying, mental distress, homelessness and transient housing situations. The Committee further takes note of the information provided that the Bill of Rights Act 1990 and the Human Rights Act 1993 prohibit discrimination based on age from 16 years old only.**

16. **Taking note of target 10.3 of the Sustainable Development Goals, the Committee urges the State party to address the structural discrimination against children in situations of vulnerability by leveraging its mandate under the Child and Youth Wellbeing Strategy (2019) to prioritize action against racism and discrimination including by collecting and analysing data on the disparities experienced by these children and developing a strategy to confront the barriers to and measure the progress achieved in respect of improving outcomes for these groups. It also recommends that the State party take measures to ensure that children (below 16 years) who are excluded from the protection of the Bill of Rights Act 1990 and the Human Rights Act 1993 are not unjustly discriminated against on the basis of age.**

### **Best interests of the child**

17. **Recalling its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party develop procedures and criteria guiding all relevant persons in applying the “child-related principles” under section 6C of the Children’s Act 2014 when making decisions under that legislation.**

### **Right to life, survival and development**

18. **Concerned that the suicide rates for Māori and Pasifika children and youth (aged 10-24) have remained consistently higher than other groups and that males are disproportionately affected, the Committee recommends that the State party:**

(a) Integrate into the New Zealand’s Suicide Prevention Strategy 2019–2029 and the Suicide Prevention Action Plan 2019–2024 specific measures targeting Māori, Pasifika and boys<sup>5</sup>, and ensure that they consider interconnected root causes such as poverty, economic deprivation and inequality, homelessness, mental distress, bullying and discrimination, substance addiction, family violence and abuse, and intergenerational trauma;

(b) Strengthen the Suicide Prevention Office, ensuring it has adequate human, technical and financial resources to oversee the effective implementation, monitoring and evaluation of the Suicide Prevention Action Plan and delivery of the Youth Mental Wellbeing Fund.

#### Respect for the views of the child

19. The Committee recalls its general comment No. 12 (2009) on the right of the child to be heard, and recommends that the State party:

(a) Ensure children’s right to have their views heard in all official decision-making processes relating to children, such as custody cases, child welfare decisions and cases concerning criminal justice, immigration and the environment,

(b) Assess the implementation of legislative amendments mandating consultation with children in all matters affecting them, including under the Oranga Tamariki Act 1989 (Section 5(1)(a)), the Children’s Act 2014 (Section 6D), the Care of Children Act 2004 (section 6) and the Education and Training Act 2020;

(c) Require independent children’s lawyers to have direct contact with the children they represent in the family courts;

(d) Facilitate children’s access to an effective complaints mechanism when their right to be heard is violated in judicial and administrative proceedings, and their access to an appeals procedure;

(e) Taking note of the Supreme Court’s declaration that the provisions of the Electoral Act 1993 and of the Local Electoral Act 2001 which provide for a minimum voting age of 18 years are inconsistent with the right in section 19 of the Bill of Rights Act 1990 to be free from discrimination on the basis of age, the State party should take measures to ensure that if the voting age is lowered, this is supported by active citizenship, human rights education, and other measures including to prevent undue influence.

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

#### Right to identity

20. The Committee recommends that the State party ensure that children born through assisted reproduction technologies, in particular with the involvement of surrogate mothers, have their best interests taken as a primary consideration in facilitating their access to the relevant Register, court file or other records of information about their biological origins.

#### Right to privacy

21. The Committee recommends that the State party:

(a) Undertake a review of the guidance produced for agencies on using the new information sharing provisions in the Oranga Tamariki Act 1989 and the Family Violence Act 2018, as well as the education specific guidelines prepared by the Ministry of Education to ensure harmonisation with the Convention and the Privacy, Human Rights and Ethics framework;

<sup>5</sup> The term “children” encompasses all persons under the age of 18 in line with article 1 of the Convention.

(b) Strengthen the training on children's rights provided to all child protection authorities, including their right to privacy, and on relevant legislation, as well as on the use of the Privacy, Human Rights and Ethics Framework tool to ensure its systematic application when assessing information sharing and data analytics practices and proposals;

(c) Ensure the application of the Data Protection and Use Policy operated by the Social Wellbeing Agency and specifically its right to dignity principle referring to the right to participation of children and the duty of agencies to support children's participation in decisions regarding their personal data;

(d) Ensure the application of Principle 4 of the Privacy Act 2020 recognizing special protection measures for children's personal information including a duty of heightened care when agencies are collecting information from children and young people.

#### Access to appropriate information

22. While welcoming the Rural Broadband Initiative to improve Internet connectivity throughout the country, the Committee, recalling its general comment No. 25 (2021) on children's rights in relation to the digital environment, recommends that the State party continue to monitor and evaluate the implementation of the 'Keep it Real Online' campaign and the guidelines developed to support a safe digital environment in school with a view to assessing their effectiveness in adequately building the capacities of children, parents, legal guardians and teachers on the safe use of information and communications technologies, in particular on how children can protect themselves from being exposed to information and material harmful to their well-being.

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

#### Violence against children, including sexual violence, abuse and neglect

23. The Committee welcomes the establishment in 2019 of the Independent Children's Monitor and its reporting function on government adherence to the National Care Standards which organizations having legal custody of children are required to meet; the creation in 2018 of the Royal Commission of Inquiry into Historical Abuse in State Care of Faith-Based Institutions; the establishment in 2018 of the Joint Venture for Family Violence and Sexual Violence to foster government agency collaboration and innovation in addressing the issue, and the formalisation of this arrangement in 2021 as the Te Puna Aonui Executive Board for the Elimination of Family Violence and Sexual Violence, noting its specific focus on children, Māori, Pacific, LGBTI, and persons with disabilities; and the significant increase of financial and human resources dedicated to strengthening the response against child abuse, family violence and sexual violence, the care and protection and youth justice system. However, the Committee remains seriously concerned about the persistent rates of abuse, neglect and violence against children, particularly domestic violence, noting the higher risk faced by Māori, Pasifika, and LGBTI children, and children with disabilities. It is further concerned about the limited access to child-friendly reporting channels, physical and psychological rehabilitation and health services, including mental health services, available to children who have suffered violence, trauma or abuse.

24. In the light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and target 16.2 of the Sustainable Development Goals, the Committee urges the State party to:

(a) Strengthen and centralize the collection and analysis of disaggregated data on children who are victims of all forms of violence, such as domestic violence, bullying and sexual exploitation and abuse, with a view to assessing the extent of the phenomenon and formulating and implementing, with the participation of children, a comprehensive strategy for preventing and combating all forms of violence against

children, with special attention to the situation of Māori, Pasifika, LGBTI children and children with disabilities;

(b) Allocate adequate resources to the National Strategy to Eliminate Family Violence and Sexual Violence Action Plan (2021-2023) and future action plans to strengthen the multidisciplinary and multisectoral response, including cooperation between relevant service providers, in addressing all cases of violence against children;

(c) Ensure and promote the mandatory reporting of cases of violence against children, in particular through intensified awareness-raising among children, parents and professionals working with or for children, about its forms, negative impacts and on victim identification and how to access assistance, protection and support;

(d) Facilitate access to child friendly, multidisciplinary and multisectoral assistance and protection services for children who are victims of violence, including psychological support, to ensure their recovery and reintegration, and means to seek remedies for the violation of their rights;

(e) Invest in culturally-specific, community-based initiatives to equip families and communities to prevent and respond to cases of child abuse, neglect and violence, in coordination with civil society organizations.

#### Harmful practices

25. The Committee welcomes the criminalization in 2018 of forced marriage and taking note of target 5.3 of the Sustainable Development Goals, recalls its previous recommendation<sup>6</sup> and further recommends that the State party:

(a) Strengthen measures to raise awareness of the harmful effects of child marriage on the physical well-being and mental health of girls;

(b) Finalize the guidelines and protocol being developed by the Intersex Working Group ensuring it sets out guarantees for the mental and bodily integrity, autonomy and self-determination of intersex children including by:

(i) Prohibiting non-urgent and non-essential (including feminising or masculinising) medical or surgical treatment of intersex children before they are of sufficient age or maturity to make their own decision and provide free, prior and informed consent;

(ii) Ensuring independent oversight of decision making to ensure that medical treatments on children with intersex traits unable to consent are necessary, urgent and the least invasive option;

(iii) Providing redress to victims of non-urgent and non-essential treatment, including appropriate compensation.

(c) Ensure that all intersex children, adolescents and their families have access to community-based psychosocial and peer support.

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

##### Family environment

26. The Committee welcomes the State party's prioritized investment of managed withdrawal and post-treatment support for alcohol and drug-related problems targeting districts with high Māori populations, the commitment to overhauling the welfare system, and the delivery of Early Support and Intensive Response services to children, their families and communities. It recommends that the State party establish a system to effectively monitor and evaluate the delivery of State-provided services and support for families, also assessing their cultural appropriateness.

<sup>6</sup> CRC/C/NZL/CO/5, para. 25.

### Children deprived of a family environment

27. The Committee notes the efforts undertaken by the State party to improve the situation of children in alternative care, notably through the reform of the care, protection and youth justice systems and the establishment of the Oranga Tamariki in 2017, noting that the amendments to the Oranga Tamariki Act 1989, set out special measures for advancing the rights of Māori children in coordination with Māori child rights organizations. It remains seriously concerned, however, about:

(a) The persistent overrepresentation of Māori children in State care, including among the high number of infants removed into State custody, and incidents of harm disproportionately experienced by these children;

(b) Allegations that children in secure residential care facilities are often denied the opportunity to have their opinions heard in decisions about their placement, and experience injuries from the use of restraints by staff, are subjected to bullying and unsanitary conditions, and lack access to a fair and effective complaints procedure;

(c) The lack of data on the needs and experiences of children with disabilities in the care system.

28. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children,<sup>7</sup> the Committee urges the State party to:**

**(a) Strongly invest in measures developed and implemented by Māori children and communities to prevent their placement in out-of-home care; limit removal, when it is deemed necessary, to the shortest time possible; provide them with adequate support while in alternative care including access to mental health and therapeutic services, and facilitate reintegration into their families and communities;**

**(b) Prevent and reduce the number of children removed from their family environment by providing appropriate assistance and support services to parents and caregivers in the performance of child-rearing responsibilities, including through education, counselling and community-based programmes for parents;**

**(c) Harmonize, make transparent and publicize the criteria, based on the needs as well as the best interests of the child, for removing and placing children in alternative care with a view to providing the highest level of protection;**

**(d) Ensure that the need for placement of each child in out-of-home care is always assessed by competent, multidisciplinary teams of professionals, and regularly reviewed, and that children and their families participate in decision-making in order to guarantee an individualized, culturally- and community-sensitive approach;**

**(e) Ensure adequate human, technical and financial resources and continuous capacity building to those exercising responsibilities under the Oranga Tamariki legislation on upholding children's rights, and particularly, staff members and caregivers of State-run institutions, Family Homes, and foster placements;**

**(f) Facilitate children's access to the residential complaints process to report instances of harm, neglect, abuse and violence and implement measures to combat retaliation;**

**(g) Systematically collect data on the views of children in and out of care on their education, health, and wellbeing, in order to address the context allowing neglect, abuse and mistreatment of children in out-of-home care to occur.**

### Adoption

29. **The Committee recommends that the State party expedite the amendment of its adoption laws in line with its previous recommendations<sup>8</sup>.**

<sup>7</sup> General Assembly resolution 64/142, annex.

<sup>8</sup> CRC/C/NZL/CO/5, para. 29.



## G. Children with disabilities (art. 23)

30. The Committee is deeply concerned that children with disabilities are at higher risk of violence and abuse, and that their families disproportionately experience deprivation, poverty and inadequate housing conditions. It is further concerned about the significantly high proportion of adolescents with disabilities who are unemployed or are not enrolled in any education or training program. It regrets that limited action in the Disability Action Plan (2019-2023) specifically focus on the needs of children with disabilities and that the Action Plan has limited mention specifically of the rights of children with disabilities, including their right to express their views on all matters affecting them.

31. **Recalling its general comment No. 9 (2006) on the rights of children with disabilities and the recommendations of the Committee on the Rights of Persons with Disabilities<sup>9</sup>, the Committee urges the State party to strengthen the integration of a human rights-based approach to disability in its implementation of the New Zealand Disability Strategy 2016-2026 and to:**

(a) **Take measures to reduce poverty among families of children with disabilities including by strengthening community-based support and care services provided to these children and their families, prioritizing those from low-income households, including carer support and respite care for parents of children with disabilities, as well as access to affordable quality housing;**

(b) **Strengthen awareness-raising campaigns to combat the stigmatization and marginalization of all children with disabilities, including those with physical, intellectual or psychosocial disabilities, emphasizing zero tolerance for all acts of violence and abuse against children with disabilities and promoting the use of child-friendly reporting mechanisms for violations;**

(c) **Promote the acquisition of competencies and skills of children and youth with disabilities in order to enhance their work opportunities including by taking concrete action to address the reasons behind their non-completion of schooling, and facilitating their transition from school to employment, including by expanding and improving the quality of vocational education and training for children and youth with disabilities;**

(d) **Prohibit in law the sterilization of children with disabilities without their free, prior and informed consent, and ensure that the Safeguarding Bodily Integrity Rights work programme raises awareness among children, parents, care givers, and health professionals of children's rights against non-consensual sterilisation and other bodily integrity abuse, also facilitating children's access to claims where this right is violated;**

(e) **Ensure the meaningful participation of children with disabilities, in particular in the work of the Ministry of Disabled People and the renewal of the Disability Action Plan (2019-2023) and in the shaping of all policies that affect them;**

(f) **Carry out the planned national Disability Survey in 2023, with the intention of updating the Survey every five years, in order to compile data on children with disabilities to inform policies and programmes for them and in order to facilitate access for children with all types of disabilities to accessible services, including to education and health, social protection and legal services, in particular children living in rural areas.**

<sup>9</sup> CRPD/C/NZL/CO/2-3 (2022), paras. 12, 36, 46, 48.

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

### Health, including mental health, and health services

32. Recalling its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and taking note of targets 3.2 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Strengthen its response to reducing the prevalence of preventable and infectious diseases, including by prioritizing the delivery of immunisation programmes especially for Māori and Pasifika children and children living in poverty, and by monitoring the strict application of the Healthy Homes Standards (2019) to improve the quality of rental properties;

(b) Strengthen measures promoting, protecting and supporting breastfeeding with a view to increasing the number of infants up to 6 months of age that are exclusively breastfed, in particular among Māori infants, including by publicizing breastfeeding guidelines, encouraging flexible working arrangements and raising awareness of the importance of breastfeeding among families and the general public;

(c) Ensure an informed focus on children in the work of the Mental Health and Wellbeing Commission, also addressing inequalities of mental health outcomes for Māori, Pasifika and LGBTI children, and prioritizing children's access to affordable, quality, age-appropriate mental health and counselling services in a timely manner.

### Adolescent health

33. Recalling its general comment No. 4 (2003) on adolescent health and general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, and taking note of targets 3.7 and 5.6 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Promote healthy lifestyles for adolescents including by monitoring the implementation of the Healthy Active Learning initiative, and strictly enforcing the amendments to the Smoke-free Environments Act 1990, also developing programmes of education and awareness-raising on the harmful effects of second-hand smoke;

(b) Address the still high rate of teenage pregnancy and the increasing rates of sexually transmitted diseases, including through ensuring:

(i) Training of educators on the Sexuality Education Guidelines (2015) to ensure its consistent and systematic implementation in schools across the country;

(ii) That all girls and boys, prioritizing Māori adolescents, those who are out of school and those in rural areas, receive confidential and child-friendly sexual and reproductive health information and services, including access to contraceptives also through the Contraceptive Access Initiative;

(iii) Raise awareness of and foster responsible parenthood and sexual behaviour, with particular attention to boys.

### Impact of climate change on the rights of the child

34. Taking note of target 13.5 of the Sustainable Development Goals, the Committee recalls its previous recommendations<sup>10</sup> and further recommends that the State party facilitate the accessibility of children and young people, in particular Māori and Pasifika children and children living in low-income settings, to meaningfully participate in climate change planning and decision-making including on adaption and mitigation work, also as required by the Climate Change Response (Zero Carbon) Amendment Act 2019, and in the work of the Climate Commission.

<sup>10</sup> CRC/C/NZL/CO/5, para. 34.

### Standard of living

35. The Committee welcomes the wide-ranging measures introduced to reduce child poverty including the Child Poverty Reduction Act 2018, the four Wellbeing Budgets since 2019, the Families Package (2018), and the Child and Youth Wellbeing Strategy (2019). The Committee is however seriously concerned that a significant proportion of children live in poverty and experience food insecurity and severe housing deprivation, including homelessness, insecurity of tenure, and overcrowding, resulting in poorer health and education outcomes, disproportionately affecting Māori and Pasifika children.

36. **Taking note of the recommendations of the United Nations Special Rapporteur on the Right to Housing arising from her mission to New Zealand in February 2020<sup>11</sup>, including the development of a human rights-based housing strategy, and recalling targets 1.1, 1.2 and 1.3 of the Sustainable Development Goals, the Committee urges the State party to:**

(a) **Ensure that measures taken to end child poverty are linked to expected timeframes, allocated adequate resources, and are assessed with a view to ensuring that such measures are impactful, comprehensive and comply with a child rights-based approach, specifically prioritising groups disproportionately impacted by poverty, including Māori children, Pasifika children and children with disabilities;**

(b) **Raise awareness and promote public debate on the annual government Child Poverty Report published through the annual Budget process;**

(c) **Specifically address the impact of severe housing deprivation on the health and wellbeing of children by prioritizing children's stable access to adequate housing, ensuring it is allocated along fair and transparent criteria, and by increasing its financial commitment to the construction of social housing units and support of community-led housing initiatives.**

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

### Education, including early childhood education and care

37. The Committee welcomes the State party's consultative efforts with children in its reform of the education system including in processes to adopt the Education and Training Act 2020, noting its obligation on the government to actively promote and protect the rights of Māori children, as well as to guarantee children with disabilities the same rights to education at State schools on an equal basis. Taking note of targets 4.1, 4.2, 4.a of the Sustainable Development Goals, and recalling the recent recommendations of the Committee on Economic, Social and Cultural Rights<sup>12</sup>, the Committee recommends that the State party:

(a) **Strengthen children's ability to have meaningful input into decisions that affect them at school including in the planned update of the New Zealand curriculum, also by implementing the requirements under the Education and Training Act 2020, on consultation with children, student representation in governance structures and in establishing accessible, independent dispute resolution mechanisms;**

(b) **Explicitly incorporate the right to inclusive education into education legislation and policy, also ensuring adequate resourcing of the National Learning Support Network Plan 2030;**

(c) **Address racism, discrimination, stigma and bias experienced by Māori and Pasifika children in school including by strengthening its efforts to promote and foster the Māori language, cultural identity and history in education;**

(d) **Take targeted measures to reduce bullying of students, prioritizing students with disabilities and LGBTI students, including by assessing the impact of**

<sup>11</sup> A/HRC/47/43/Add.1 (2020).

<sup>12</sup> E/C.12/NZL/CO/4 (2018), para. 49.

actions taken under the Bullying Prevention and Response Work Programme 2019-2022, and incorporating these outcomes in its revision;

(e) Raise awareness targeting families from lower socioeconomic backgrounds on the government subsidies available for childhood care and education for children from 0-5 years old.

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

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

38. Recalling the joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration and its General Comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party preserve the right of asylum-seeking, refugee and migrant children to family unity and improve case management frameworks by developing comprehensive service referral pathways, including to physical and mental health services, education, access to justice through the provision of free legal aid, prioritizing unaccompanied and separated children and children with disabilities.

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

39. The Committee notes with appreciation the progress made in establishing measures for the full enjoyment by Māori and Pasifika children of their rights, also demonstrated through the increased funding allocated through the Wellbeing Budget particularly to health and social services. It is deeply concerned, however, about the inequitable survival and development outcomes for Māori children including the disproportionate mortality rate for Māori infants and the suicide rate of Māori youth, the overrepresentation of Māori children that are victims of homicide, family violence, child abuse and neglect, and the number of Māori children in State care and in conflict with the criminal justice system.

40. The Committee recalls its general comment No. 11 (2009) on indigenous children and their rights under the Convention, and urges the State party to:

(a) Systematically assess the impact of policies, legislation and government services in addressing the root causes of vulnerability experienced by Māori children and their families, including the higher likelihood of living in deprivation and poverty;

(b) In line with the recent legislative developments strengthen the duties of schools and child protection and youth justice sector decision-makers to recognise and uphold the right to identity of Māori children, systematically ensure that the voices of Māori children are heard and that their views are considered in decisions that affect them also by strengthening support for organizations promoting and protecting their rights and that of their families;

(c) Finalize the National Action Plan Against Racism and the Declaration of the Rights of Indigenous Peoples Action Plan, including the participation of Māori children in their development.

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

41. Taking note of target 8.7 of the Sustainable Development Goals, the Committee recalls its previous recommendations<sup>13</sup> and further recommends that the State party:

(a) Raise awareness in schools and among parents and employers on the regulations regarding the participation of children in paid work;

<sup>13</sup> CRC/C/NZL/CO/5, para. 44.

(b) **Facilitate access to a child-specific complaints mechanism that can receive, monitor and investigate reports on cases of labour exploitation of children, and raise awareness among children of the mechanism;**

(c) **Provide continuous capacity-building for law enforcement officials, labour inspectors and other relevant professionals on the legislative and regulatory protections safeguarding children participating in paid work, including the “Ensuring Fair Workplaces” initiative of the Labour Inspectorate, to ensure that international child labour standards with respect to age, working hours, working conditions, education and health are upheld and all violations are reported.**

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

42. The Committee remains seriously concerned that:

(a) The minimum age of criminal responsibility is below international standards and is offence-based rather than child-centred;

(b) The goal of separating children from adults in all places of detention is still not reached, and that children aged 14 to 17 can be remanded in police custody after their first court appearance in the youth justice system, for an indeterminate duration pending transfer to another facility;

(c) Although legislative changes have extended the youth justice system to most 17-year-olds, offenders charged with certain serious offences are automatically transferred to the adult criminal justice system, thereby depriving them of special protections for children;

(d) Māori children remain disproportionately represented in the youth justice system and are overrepresented among people who died by suicide in closed institutions.

43. **Recalling its general comment No. 24 (2019) on children’s rights in the child justice system, the Committee urges the State party to bring its child justice system fully into line with the Convention and urges the State party to:**

(a) **Raise the minimum age of criminal responsibility to 14 years for all children, regardless of offence category;**

(b) **Repeal the practice of remands into police custody and reduce the proportion of children in secure youth justice residences who are on remand including by investing in the development of community-based residences and strengthening the availability and use of non-custodial measures;**

(c) **For the few situations where deprivation of liberty is used as a measure of last resort, continue to strive for full compliance with the international requirement to detain children separately from adults, and ensure that detention conditions are compliant with international standards, including with regard to access to education and health services, and, for pretrial detention, to ensure that detention is reviewed on a regular basis with a view to its withdrawal;**

(d) **End the automatic transfer of 17-year-olds who are accused of serious offences to be tried by the adult courts, and ensure that they are dealt with in the youth justice system;**

(e) **Develop an effective action plan towards eliminating the disparity in the rates of sentencing, incarceration and survival in detention of Māori children, by addressing the connections between offending and neurodisability, alienation from whanau (family), school and community, substance abuse, family violence, removal into state care and intergenerational issues.**

## **K. Follow-up to the Committee's previous concluding observations and recommendations concerning the implementation of the Optional Protocols to the Convention**

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

44. With reference to its 2019 guidelines on the implementation of the Optional Protocol, the Committee urges the State party to:

(a) Establish a comprehensive data-collection system covering all areas of the Optional Protocol and disaggregated by form of exploitation, age and gender of the victim;

(b) Adopt a national action plan addressing all crimes as defined in the Optional Protocol, ensuring it is responsive to the nature and root causes of the sexual exploitation of children;

(c) Strengthen the coordination and cooperation between child protection stakeholders to improve the early detection and identification of children who are victims of all offences prohibited under the Optional Protocol, also considering acts that are not perpetrated online, and ensure that they have immediate access to victim support services, including shelters;

(d) Ensure that all crimes under articles 2 and 3 of the Optional Protocol are investigated and that perpetrators, including legal persons such as corporations, are prosecuted and sanctioned, for offences under the Optional Protocol.

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

45. The Committee recalls its previous concluding observations<sup>14</sup> on the report of the State party submitted under article 8 of the Optional Protocol and further recommends that the State party:

(a) Review the Strategic Defence Policy Statement 2018, to explicitly integrate the obligations under the Optional Protocol and the Convention and ensure their provisions are included in the curriculum of Defence Force training academies and as part of the continuing education requirements for personnel in active service;

(b) Decrease the operation of service academies programmes in New Zealand secondary schools that are run in conjunction with the national Defence Force with a view to demilitarising schools, ensuring that they are firearms-free zones.

## **L. Ratification of international human rights instruments**

46. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments to which it is not yet a party: **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; International Convention for the Protection of all Persons from Enforced Disappearance; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

## **M. Cooperation with regional bodies**

47. The Committee recommends that the State party continue to cooperate, among others, with regional organizations such as the Pacific Community and the Pacific Islands Forum.

<sup>14</sup> CRC/C/NZL/CO/5, para. 47.

## **IV. Implementation and reporting**

### **A. Follow-up and dissemination**

48. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented and that a child-friendly version is disseminated to, and made widely accessible for, children, including the ones in the most disadvantaged situations. The Committee also recommends that the sixth periodic report of the State party, under the simplified reporting procedure and the present concluding observations be made widely available in the languages of the country.

### **B. National mechanism for reporting and follow-up**

49. The Committee recommends that the State party strengthen the National Mechanism for Reporting and Follow-Up and ensure that it has the mandate and the adequate human, technical and financial resources to effectively coordinate and prepare reports to international and regional human rights mechanisms and to coordinate and track national follow-up to, and implementation of, treaty obligations and the recommendations and decisions emanating from such mechanisms. The Committee emphasizes that the National Mechanism for Reporting and Follow-Up should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with the New Zealand Children's Commissioner and the New Zealand Human Rights Commission and civil society.

### **C. Next report**

50. The Committee will establish and communicate the due date of the combined seventh and eighth periodic reports of the State party in line with a future predictable reporting calendar based on an eight-year review cycle and following the adoption of a list of issues and questions prior to reporting, if applicable, for the State party. The report should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

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