



# *Peace Movement Aotearoa*

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## **New Zealand children: UN Committee “deeply concerned”**

### **UN Committee expresses deep concern about the enduring high prevalence of poverty among children and a range of other issues, and makes recommendations for improvement**

10 October 2016

The UN Committee on the Rights of the Child released two sets of Concluding Observations on New Zealand’s performance on Saturday, 8 October. The Committee - which monitors state party compliance with the Convention on the Rights of the Child (the Convention), the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC, also known as the Optional Protocol on Child Soldiers), and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) - considered New Zealand’s performance during its 73rd session last month.

This update provides an overview of both sets of Concluding Observations, and includes a section at the end with links to background information on the Convention, the Committee, the process for considering state parties performance on children’s rights, and the NGO and government reports to the Committee.

#### **1. Concluding Observations: Convention on the Rights of the Child, and the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)**

The Concluding Observations which cover the government’s performance in relation to the Convention and OPAC (CRC/C/NZL/CO/5) follow the standard layout of UN human rights monitoring bodies, with four main sections:

**I. Introduction** - two paragraphs;

**II. Progress achieved by the state party (New Zealand)** - one brief paragraph;

**III. Main areas of concern and recommendations** - forty-six detailed paragraphs over fifteen pages which cover the government’s multiple failures to meet the required standards in relation to the range of children’s rights, as well as recommendations on how it can improve its performance; and

**IV. Implementation and reporting** - three paragraphs covering follow up on, and dissemination of, the Concluding Observations, and when the government’s next Periodic Report is due.

As mentioned above, the Concluding Observations contain forty-six paragraphs detailing the Committee’s concerns, along with recommendations on how the government can improve its performance, in relation to the full range of children’s rights. The Committee’s concerns (and

recommendations) include issues around: protection against discrimination; the best interests of the child; the right to life, survival and development; respect for children's views; the right to identity; the right to privacy; access to appropriate information; violence, abuse and neglect; sexual exploitation and abuse; the family environment, including support for parents, care and protection of children deprived of their families, and multiple deficiencies in the current care system, as well as concerns about the government's reform proposals, inadequate resourcing for the care and protection of children, and the privatisation of services for children; children with disabilities; child and adolescent health; standard of living and housing; the education system; asylum seeker and refugee children; Maori children and children belonging to minority groups; economic exploitation; the criminal justice system in relation to juveniles; children's right and the business sector; and the impact of climate change.

The Concluding Observations also stress: the need to ensure all legislation is consistent with the Convention on the Rights of the Child and its first two Optional Protocols; the need for a comprehensive policy and strategy to ensure all child rights are protected; the need to ensure a child rights approach when preparing the Budget each year, and to conduct a child rights impact assessment in all areas of public spending; the need to ensure the Office of the Children's Commissioner is fully independent from government and has sufficient resources to fulfil its monitoring, advisory, investigatory and awareness-raising roles; the need to ensure awareness and training about the Convention and child rights for all professional groups working with, and everyone who has contact with, children; the need to ensure that children are aware of the rights detailed in the Convention and its first two Optional Protocols; and the need for comprehensive data collection which can be used for monitoring, formulating and evaluating policy, programmes and projects to ensure effective implementation of the Convention and its first two Optional Protocols.

The Committee had the following to say about the right to an adequate standard of living and housing, the level of child poverty, and the impact of the welfare reforms and benefit sanctions:

*35. While welcoming the public debate and attention given to the prevalence of child poverty in the State party, including through the appointment of an Expert Advisory Group on Solutions to Child Poverty, the Committee is deeply concerned about the enduring high prevalence of poverty among children, and the effect of deprivation on children's right to an adequate standard of living and access to adequate housing, with its negative impact on health, survival and development, and education. It is particularly concerned about the continuing disparities faced by Maori and Pasifika children with regard to the enjoyment of these rights. It is further concerned about the impact of recent welfare and benefit sanctions reforms on children living in benefit-dependent households.*

*36. The Committee draws attention to target 1.3 on implementing nationally appropriate social protection systems and measures for all and target 11.1 to realise access to adequate, safe and affordable housing for all, of the Sustainable Development Goals, and urges the State party to:*

*(a) Introduce a systemic approach to addressing child poverty, in particular Maori and Pasifika children, including establishing a national definition of poverty;*

*(b) Increase substantially the allocations necessary to directly and comprehensively tackle child poverty and ensure that budgetary lines for children in disadvantaged, vulnerable situations and situations of poverty that may require affirmative social measures are adequate and protected even in situations of economic crisis, natural disasters or other emergencies;*

*(c) Strengthen its social protection mechanisms and intensify its efforts to provide safe and adequate housing to all children;*

*(d) Consider holding targeted consultations with families, children and children's rights civil society organizations on the issue of child poverty, with a view to strengthening the strategies and measures for fulfilling children's rights in poverty reduction strategies.*

While the particular rights of Maori children are referred to throughout the Concluding Observations, one of the specific areas of concern detailed is around cultural identity and its connection to a range of children's rights:

*19. While appreciating the State party's efforts to preserve Maori identity, including through language and television programmes, the Committee is concerned that these efforts remain insufficient and recommends that the State party:*

*(a) Intensify efforts to promote and foster Maori language, culture and history in education and increase enrolment in Maori language classes;*

*(b) Ensure that Maori children adopted by non-Maori parents have access to information about their cultural identity;*

*(c) Ensure that all government agencies developing legislation and policies affecting children take into account the collective dimension of Maori cultural identity and the importance of their extended family (whanau) for Maori children's identity.*

Furthermore, the particular rights of Maori children and children with disabilities are highlighted, for example, around the care of children who are removed from their families by the state:

*28. Drawing the State party's attention to the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee urges the State party to:*

*(a) When reforming the care system, ensure that the best interests of the child are taken into account as a primary consideration in every case and that the child is heard in all matters affecting her or him; ensure a common understanding of a child-centred approach across the care system; and regularly monitor the implementation of the reform and its impact on children's outcomes, with particular attention to Maori children and children with disabilities;*

*(b) Strengthen its efforts to improve the cultural capability of care and protection system and its engagement with Maori communities, the whanau (extended family), hapū (sub-tribal groupings) and iwi (tribal groups), including by implementing the recommendations of the Children's Commissioner's 2015 'State of Care' report ...*

The above recommendations on cultural capability of the care and protection system are especially useful right now when the government is proposing to remove the legislative principles prioritising placing Maori children in care with whanau, hapu and iwi (part of the recently announced further reforms to child protection and care). Further information on that proposal is available at <https://www.nzfvc.org.nz/news/proposal-deprioritise-placing-m%C4%81ori-children-care-wh%C4%81nau-hap%C5%AB-iwi-criticised>

In relation OPAC - which is a particular focus for Peace Movement Aotearoa, our report on the government's compliance with the Convention and this Optional Protocol is available at <http://www.converge.org.nz/pma/crc73-pma.pdf> - the Concluding Observations state:

*47. The Committee regrets that the State party did not submit sufficient information on the implementation of its recommendations (CRC/C/OPAC/CO/2003/NZL/1 of 2003) and urges the State party to provide comprehensive and detailed information in this regard in its next report. The Committee further recommends that the State party explicitly prohibit and criminalise the recruitment and use in hostilities of persons of less than 18 years of age by non-state armed groups as well as establish and exercise extra-territorial jurisdiction over all crimes under the Optional Protocol.*

The Concluding Observations covering the government's performance in relation the Convention and OPAC (CRC/C/NZL/CO/5) are available at <http://www.converge.org.nz/pma/CRC-C-NZL-CO-5.pdf>

## **2. Concluding Observations on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)**

The Committee's Concluding Observations on the government's performance in relation to OPSC (CRC/C/OPSC/NZL/CO/5) are separate from the Concluding Observations on the Convention and OPAC because the Committee was considering the government's first report under this Optional Protocol. When the Committee considers New Zealand's performance in future, the OPSC will be included in the government's Periodic Report and the same Concluding Observations as the Convention and OPAC.

The OPSC Concluding Observations comprise ten sections:

**I. Introduction** - two paragraphs;

**II. General Observations on positive aspects of the government's performance** - two paragraphs;

**III. Data collection** - two paragraphs;

**IV. General measures of implementation** - fourteen paragraphs, including concerns and recommendations on legislation, policy and strategy, coordination and evaluation, monitoring, dissemination, awareness-raising and training, and allocation of resources;

**V. Prevention of the sale of children, child prostitution and child pornography** - six paragraphs detailing the Committee's concerns and recommendations, for example, around the measures adopted to prevent offences under the OPSC, and child sex tourism;

**VI. Prohibition of the sale of children, child prostitution and child pornography** - sixteen paragraphs detailing the Committee's concerns and recommendations around, for example, legislation, liability of legal persons (including corporations), extraterritorial jurisdiction and extradition;

**VII. Protection of the rights of child victims** - six paragraphs detailing the Committee's concerns and recommendations around, for example, the measures already adopted, the criminal justice system, and recovery and reintegration of victims;

**VIII. International assistance and cooperation** - one paragraph;

**IX. Follow up and dissemination** - two paragraphs; and

**X. Next report** - one paragraph requesting the government to include information on implementation of OPSC in its next Periodic Report on implementation of the Convention (together with information about OPAC, as mentioned at the top of this section)

The Concluding Observations covering OPSC available at <http://www.converge.org.nz/pma/CRC-C-OPSC-NZL-CO-5.pdf>

### **3. Where you can get more information**

Background information on the Convention, its Optional Protocols, the Committee on the Rights of the Child, the process for considering state parties performance, the Committee's 73rd session, New Zealand and the Convention and the Optional Protocols, NGO and other reports to the Committee, and the interactive dialogue between government representatives and the Committee during the 73rd session is available at <http://www.converge.org.nz/pma/hright.htm> - on Facebook at <https://www.facebook.com/notes/peace-movement-aotearoa/un-committee-on-the-rights-of-the-child-considers-new-zealands-performance/1116431365070898> and formatted for printing at <http://www.converge.org.nz/pma/crc-update16.pdf>

Links to the formatted edition of this update - on Facebook and formatted for printing - are available at <http://www.converge.org.nz/pma/hright.htm>