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United Nations Committee on the Rights of the Child considers New Zealand's performance

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The UN Committee on the Rights of the Child - 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), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) - will begin its consideration of New Zealand's performance in Geneva overnight. The Committee will hold three interactive dialogues with government representatives, starting at 1am tomorrow morning, during its 73rd session which runs from 13 to 30 September 2016.

This update has two main sections:

Section 1 provides information on New Zealand, the Convention and the Optional Protocols; NGO and other reports to the Committee; and the interactive dialogue times and webcast; and

Section 2 provides background information on the Convention, its Optional Protocols, the Committee on the Rights of the Child, the process for considering state parties performance, and the Committee's 73rd session.

1) New Zealand, the Convention, Optional Protocols, Reports, Interactive Dialogue

• New Zealand, the Convention and the Optional Protocols

New Zealand ratified the Convention on 6 April 1993, with three reservations - the reservations are available at <http://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/human-rights/international-human-rights/crc>

New Zealand ratified the OPAC on 12 November 2001, and the OPSC on 20 September 2011. New Zealand has not signed or ratified the Optional Protocol on a Communications Procedure (OPIC).

The Committee last considered New Zealand in 2011 - the Concluding Observations from that session are available at <http://www.converge.org.nz/pma/CRC-C-NZL-CO-3-4.pdf> and a brief overview of the Committee's concerns is available at <http://www.converge.org.nz/pma/nzcrc56.pdf>

New Zealand submitted its fifth periodic report to the Committee in December 2015, and during the Pre-Sessional Working Group in February 2016, the Committee provided a List of Issues (available at <http://www.converge.org.nz/pma/crc-loi2016.pdf>) - issues it required the government to supply further information about before the 73rd session.

The periodic report, reply to the List of Issues, and appendices are available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1041&Lang=en - to access the documents, scroll down to the 'New Zealand' section, then click on each of the lines with 'state party' in it.

New Zealand's initial report on OPSC will also be considered during the 73rd session - the report, the Committee's List of Issues, and the government's response, are available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1041&Lang=en - to access the documents, scroll down to the 'Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' heading near the end of the page, and click on the lines under 'New Zealand'.

The government delegation to the 73rd session is led by the Minister for Social Development, Anne Tolley - the full delegation list is at <http://www.converge.org.nz/pma/crc73-del.pdf>

• NGO and other reports to the Committee

When considering the information provided by the government, the Committee will also take into account the reports provided by NGOs, the Children's Commissioner, and the Human Rights Commission.

The comprehensive combined NGO report for the Pre-Sessional Working Group, which covers all aspects of the Convention, was coordinated and written by Action for Children and Youth Aotearoa (ACYA) - the report is available at http://www.acya.org.nz/uploads/2/9/4/8/29482613/2015_acya_alternative_report_for_dissemination.pdf

ACYA also provided further reports to the Committee last month, which are available at <http://www.acya.org.nz/news-and-events/acyas-latest-reports-to-uncroc> ACYA's 'Litany of Missed Opportunities Hurts NZ Children and Young People Most', 14 September 2016, is at http://www.acya.org.nz/uploads/2/9/4/8/29482613/media_release_14_september_2.pdf

Peace Movement Aotearoa provided the only report about the OPAC - the report, which has six sections covering the New Zealand armed forces and the Optional Protocol (including the age of recruitment and recruitment practices, overseas combat operations and child rights, military policy and child rights, and the New Zealand Cadet Force); public spending, military spending and child rights; military involvement in education, here and in the Pacific; military involvement in youth development programmes here and in the Pacific; the education curriculum and peace education; and OPAC dissemination and training - is available at <http://www.converge.org.nz/pma/crc73-pma.pdf>

UNICEF and Save the Children provided a report to the Committee, 'Our Voices Our Rights, which is about the lives and wishes of children in Aotearoa New Zealand based on the thoughts, experiences and opinions of 1198 children - the report and related video is at <https://www.unicef.org.nz/reports/ourvoices>

Other NGO reports covering various aspects of the Convention and the OPSC are at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1041&Lang=en - to access the documents, scroll down to the 'New Zealand' section, then click on the 'Info from Civil Society Organizations' line.

The reports from the Children's Commissioner and Human Rights Commission are at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1041&Lang=en - to access the documents, scroll down to the 'New Zealand' section, then click on the 'Info from NHRIs' line.

- **Interactive dialogue times and webcast**

The Committee will begin the interactive dialogue with New Zealand in relation to the Convention and OPAC in Geneva on Thursday, 15 September at 3pm (**NZ time: 1am, Friday, 16 September**), continue on Friday, 1 September at 10am (**NZ time: 8pm, Friday, 16 September**), and will then consider NZ in relation to the OPSC on Friday, 16 September at 3pm (**NZ time: 1am, Saturday, 17 September**).

The sessions will more than likely be available live via the webcast at <http://webtv.un.org/meetings-events> - scroll down the page and click on the 'Human Rights Treaty Bodies' tab on the left, then on 'Committee on the Rights of the Child'. Please note however that not all sessions of the Committee are broadcast live.

2) Background information

The section below has background information on the Convention, its Optional Protocols, the Committee on the Rights of the Child, the process for considering state party reports, and the Committee's 73rd session.

- **The Convention on the Rights of the Child**

The Convention was adopted by the UN General Assembly on 20 November 1989 and it entered into force on 2 September 1990. It is the most widely ratified binding human rights instrument with 196 state parties.

As its title indicates, the Convention elaborates the particular rights of children - it has 54 Articles, arranged in three parts. Part I (Articles 1 to 41) covers the full range of economic, social, cultural, civil and political rights of children centred around four key principles: non-discrimination (Article 2); the best interests of the child must be taken into account on any decisions that affect them (Article 3); the right to life, survival and development - including physical health, and mental, emotional, cognitive, social and cultural development (Article 6); and the right to be heard and to have their views taken seriously, in accordance with the age and maturity of the child (Article 12).

Part II includes a positive obligation on state parties to make the principles and provisions of the Convention widely known (Article 42), the establishment of the Committee, and the process for state parties to report on the measures they have taken to implement the Convention (Articles 43 to 45). Part III (Articles 46 to 54) covers details such as the Convention's entry into force provisions, the process for states to ratify the Convention, and how they can propose amendments to it. The text of the Convention is available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

• **Optional Protocols to the Convention on the Rights of the Child**

The Convention has three optional protocols - the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC, also known as the Optional Protocol on Child Soldiers), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), and the Optional Protocol on a Communications Procedure (OPIC).

The OP-AC was adopted by the UN General Assembly on 25 May 2000 and entered into force on 12 February 2002; it currently has 165 state parties. The OPAC covers all aspects of the involvement of children in armed conflict, raises the age at which state parties can permit children to take part in direct hostilities from 15 to 18, raises the age of compulsory recruitment into armed forces to 18, and sets out minimum standards that must be met by states that permit voluntary recruitment of children who are under 18. The OPAC text is available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

The OPSC was adopted by the UN General Assembly on 25 May 2000 and entered into force on 18 January 2002; it currently has 173 state parties. The OPSC prohibits the sale of children, child prostitution and child pornography; makes the offences listed in Article 3.1 extraditable offences; and requires each state party to take measures to establish jurisdiction when the listed offences are committed in its territory, on board a ship or aircraft registered in the state, and when the victim or the offender is a national of the state. The OPSC text is available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

The OPIC was adopted by the UN General Assembly on 19 December 2011 and entered into force on 14 April 2014; it currently has 27 state parties. The OPIC provides a mechanism for children, or their representatives, to take complaints to the Committee in relation to breaches of Convention, OPAC or OPSC rights. The OPIC text is available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>

• **The Committee on the Rights of the Child**

The Committee is the United Nations body which monitors the progress of state parties towards fulfilling their binding obligations under the Convention, OPAC and OPSC. It comprises 18 independent human rights experts, who are each elected for a term of four years by a secret ballot of all state parties to the Convention. Information about the current members of the Committee is available at <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Membership.aspx>

The Committee meets in Geneva and normally holds three sessions each year, each consisting of a three-week plenary and a one-week Pre-Sessional Working Group.

More information about the Committee and its work is available at <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>

• **The process for considering state parties performance**

Every state party to the Convention is required to submit regular periodic reports to the Committee on what legislative, judicial, administrative and other measures they have taken to fulfil their obligations under the Convention and the Optional Protocols (where applicable). The initial report is submitted two years after the state has ratified the Convention and then at five-yearly intervals. After the submission of an initial report on the Optional Protocol/s (also two

years after ratification), updates on measures to implement the Optional Protocol/s are included in the state's periodic report under the Convention.

The periodic reports are examined by the Committee in conjunction with information supplied in parallel reports from NGOs. As well as the texts of the Convention and its Optional Protocols (where applicable), the Committee takes into account General Comments, which it has developed through time to provide more detailed information on specific child rights topics, to assess whether or not a state party is complying with its binding obligations - the Committee's General Comments are available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11 The Committee has also published eleven recommendations which are available at <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Decisions.aspx>

Prior to the session when a periodic report will be considered, a List of Issues (a list of specific issues that the Committee wants more information on) is sent to the state party. The List of Issues is put together during a Pre-Sessional Working Group by Committee members appointed to cover that particular state party during the examination of its periodic report. Once the list of issues has been adopted, it is transmitted to the state party concerned and the state is required to provide the requested information in writing before the plenary session when the state's compliance with the Convention and its Optional Protocols (if applicable) will be considered.

The examination of state party reports takes the form of an interactive dialogue and begins with the state party's representative introducing the periodic report by way of brief introductory comments. Committee members then make comments or ask questions about the report, to which the state representative replies; this is followed by further comments and questions from Committee members, which the state representative/s then address. The dialogue is designed to give the Committee a more complete picture of the child rights' situation in the state.

The final phase of the Committee's examination of a state's periodic report is the drafting and adoption of Concluding Observations. These generally include an introductory section, a section with positive aspects, and a section with principal areas of concern which includes suggestions and recommendations on how the state party can improve its implementation of the Convention. Concluding Observations generally also include a recommendation requesting the wide dissemination of the Concluding Observations in the state party concerned, and sometimes a request for additional information to be provided to the Committee within a specified deadline (usually of one year) on specific points.

• **Committee on the Rights of the Child's 73rd session**

The Committee's 73rd session runs from 13 to 30 September 2016. As well as considering the NZ government's Periodic Report on the Convention and the OPAC, the Committee will consider Periodic Reports from Nauru, Saudi Arabia, Sierra Leone, South Africa, and Suriname, and the initial OPSC reports from New Zealand and South Africa. In addition, the Committee will hold a public day of general discussion dedicated to the children's rights and the environment, launch General Comment 19 on Public Budgets to Realise the Rights of the Child adopted at its previous session, and work on three new General Comments: the implementation of the rights of the child during adolescence; children in street situations; and a joint General Comment on children in the context of migration, to be prepared and issued jointly with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.