

Summary of public consultation on New Zealand's Draft Fifth Periodic Report under the United Nations Convention on the Rights of the Child 2015

Introduction

New Zealand must submit its Fifth Periodic Report (the Report) under the United Nations Convention on the Rights of the Child (UNCROC) by 5 May 2015. The Report covers New Zealand's progress in improving outcomes for children, responding to the 2011 Concluding Observations of the United Nations Committee on the Rights of the Child (the Committee), and progressively implementing the articles of UNCROC.

Public consultation

The Ministry of Social Development (MSD) undertook public consultation between 19 December 2014 and 27 February 2015. As part of public consultation, the Report was published on MSD's website for comment, email submissions were invited, public meetings held, and an online survey conducted.

Themes from submissions and consultations

Results and Responses



Public consultation resulted in:

- 36 email submissions from NGOs and individuals
- 26 online survey responses
- Approximately 70 attendees at public meetings in Auckland, Wellington and Christchurch

- The lack of accessible evaluation and data that shows the outcome of government initiatives for children.
- The Government's progress towards withdrawing New Zealand's three reservations to UNCROC.
- Family violence continues to be a persistent problem affecting children.
- Child hardship persists and there is a lack of initiatives targeting the problem.
- The Children's Action Plan is not the national plan of action for all children envisaged by the Committee.
- Inconsistencies in the definition of child through the use of different ages in different statutes.
- A lack of knowledge of UNCROC amongst government officials and a lack of systematic consideration of UNCROC in policy-making and legislation.
- Insufficient mechanisms for ensuring the views of children and young people are captured during the policy and legislative process.
- Little awareness-raising of UNCROC by the Government.
- Access of children with disabilities to adequate education support services.
- The quality and reach of Early Childhood Education.
- Reform of adoption legislation.
- The importance of quality housing to a child's wellbeing.
- The Government's response to children in the wake of the Canterbury earthquakes.
- The Government's improved emergency response to natural disasters.
- The lack of evidence of outcomes for minority groups, such as children in state care, refugee, migrant, ethnic minority, disabled, gay, bisexual, lesbian and transgender children.

Further analysis on the consultation process and results

I. The consultation process

The Ministry of Social Development undertook public consultation on the Draft Report between 19 December 2014 and 27 February 2015.

During this period, a ‘UNCROC Public Consultation’ web page was set up on the Ministry of Social Development’s website. This page had the Report, a summary of the Report, an online survey on government progress against UNCROC and an ‘invitation to participate’ in consultation. A link to UNICEF New Zealand’s website provided access to child friendly resources on UNCROC. An UNCROC email address and a phone number were included for people to request public consultation materials.

The ‘invitation to participate’ in public consultation was sent to government agencies, non-government organisations (NGOs) and interested individuals. This included the Office for the Children’s Commissioner, the Human Rights Commission, UNICEF New Zealand, the Child Poverty Action Group, Action for Children and Youth Aotearoa, Save the Children New Zealand and Every Child Counts. These organisations were asked to distribute the ‘invitation to participate’ through their relevant networks.

Public Meetings

In February 2015, public meetings were held in Wellington, Christchurch and Auckland. Approximately 70 participants attended the meetings. The public meetings lasted for two hours. They followed a workshop format. Participants had the opportunity to comment on the different areas of UNCROC.

On 24 February 2015 a meeting was held with representatives from the UNCROC Monitoring Group to gather their feedback.

Online Survey

The online survey on the ‘UNCROC Public Consultation’ web page was live from 19 December 2014 to 27 February 2015.

26 responses to the online feedback form were received. Submitters were asked to select a rating between strongly agree to strongly disagree when giving their feedback on government progress against UNCROC.

Of those who completed online surveys, 68 percent were female and 32 percent were male, 71 percent were New Zealand European, 57 percent were professionals who work in the children’s sector and 43 percent were members of an advocacy organisation. They were all between the age of 25 and 65 years old.

Email Submissions

Thirty six email submissions were received from groups and individuals.

II. Feedback

The following summary of the feedback corresponds with the relevant section of the Report and offers a snapshot of the opinions shared at the public meetings, through the online survey and email submissions.

General comments and key issues

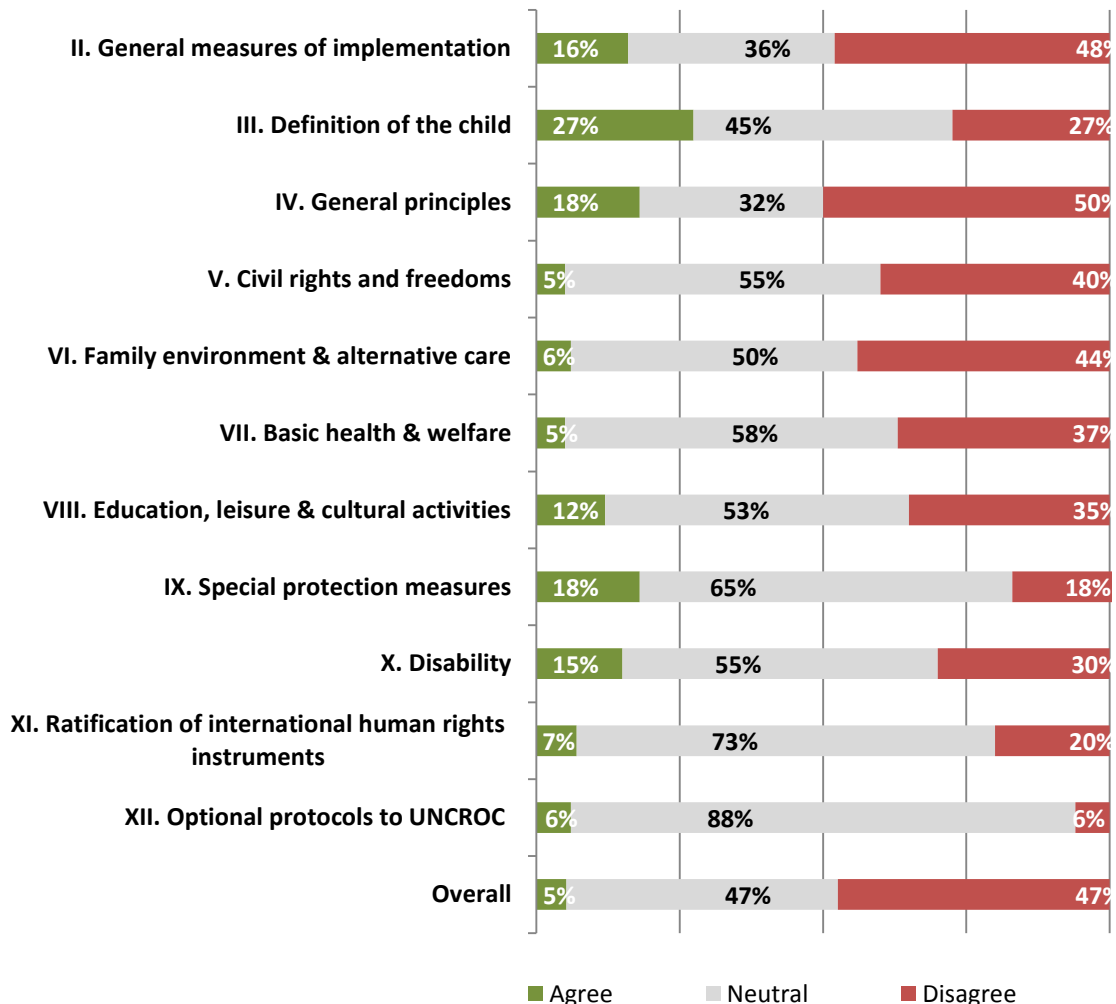
At the consultation the participants shared their personal and professional experience and expertise on children’s issues.

The general response from the meetings was positive. The government was commended for the initiatives it is implementing and the progress that is being made. Constructive feedback was offered on areas identified by the public as needing the attention of the government.

The main concern raised by participants was that the Report read as a list of programmes and that it would be more informative if it gave information about the effectiveness of the programmes.

Many helpful suggestions were made about target areas and ways to improve implementation. The public pointed out that although there may be strong policy and legislation it is important to recognise what happens in practice too.

Online Survey results show the view of survey participants on whether they agreed or disagreed with the Government’s assessment of progress in each section of the Report



i. General measures of implementation

The Government was commended on

- **Efforts to prevent child abuse:** Submitters applauded the intensive support provided by the Children's Action Plan to children at risk of abuse and neglect. They also recognised the Better Public Service Result Area 4 that tracks government progress on halting the rise of children experiencing physical abuse and a reduction in numbers of 5 percent by 2017.
- **Continued investment in social services:** Submitters appreciated the government maintaining the level of social services provided to children and families/whānau despite the Global Financial Crisis.

There were gaps in the Report

- **The wider New Zealand context:** The introduction did not reference the wider New Zealand context, including recovery from the Global Financial Crisis, the increasing ethnic diversity of young people, climate change, and the Treaty of Waitangi.

Themes and issues identified by participants included

- **Clearer assessment of outcomes:** More formalised standard measurements and assessments of results need to be made available to the public. Including drawing connections between services and outcomes. Often it was acknowledged that while policies were in place, they are sometimes not supported by effective implementation.
- **Removal of reservations:** The lack of progress in removing New Zealand's three reservations was repeatedly raised. New Zealand has a reservation to article 2 (children unlawfully in New Zealand and their access to services), article 32(2) (a legislated minimum age for admission to employment) and article 37(c) (age-mixing in places of detention). It was argued that there is sufficient basis for the Government to remove the reservation to article 2 regarding children living unlawfully in New Zealand and requested justifications from the Government for not doing so.
- **Tokelau:** The application of UNCROC to Tokelau was raised by many submitters. They felt progress in implementing UNCROC was slow and that more information should be made available on outcomes for children and young people in Tokelau.
- **Legislation:** The mechanisms to ensure new legislation is consistent with UNCROC are not strong enough.
- **National plan of action:** The scope of the Vulnerable Children's Act 2014 and the Children's Action Plan needed to be made clear to the Committee. Submitters felt that it was not a national plan of action for children as envisaged by the Committee.
- **Dissemination and awareness-raising:** There is a lack of public awareness of UNCROC. This could be improved by a large scale education programme on human rights in schools.

- **Training:** More training is needed to raise awareness of UNCROC amongst government officials and professionals working with children.

ii. Definition of the child

The Government was commended on

- **Children’s Action Plan:** The development of the Children’s Action Plan for improving the wellbeing of children, and in particular, Part 1 of the Vulnerable Children Act 2014 that defines a ‘child’ as a person who is under the age of 18 years.

Themes and issues identified by participants included

- **Definition of child:** Many submitters noted that the definition of “child” or “young person” varies across different legislation in New Zealand. UNCROC requires a “child” to be defined as “every human being below the age of 18 years unless under the law applicable to the child, majority is obtained earlier.” Of particular note is the upper age limit of the Child, Young Person and their Families Act 1989.

iii. General Principles

The Government was commended on

- **Cross-agency wrap-around approaches:** Cross-agency approaches were highlighted as being the most effective way to ensure children receive the services that they need. The Social Sector Forum (of Chief Executives) was cited as a great example of efforts towards a whole-of-government approach to safeguarding children’s rights.
- **Whānau Ora:** Whānau Ora was recognised as having a positive impact in the area of family violence intervention and prevention.

There were gaps in the Report

- **Lesbian, gay, bisexual, transgender and intersex children:** There was no mention in the report about services for these groups of children.

Themes and issues identified by participants included

- **Best interests of the Child:** Feedback was received that the principle of making decisions in the best interests of the child should be embedded in more legislation, in particular adoption law (including the Adoption Act 1955, the Adoption (Intercountry) Act 1997 and the Adult Adoption Information Act 1985).
- **Respect for the views of the child:** There are not sufficient mechanisms in place for ensuring the views of children and young people are captured during the policy and legislative process. Submitters raised the Family Court Proceedings Reform Act 2013 which has limited the circumstances in which a lawyer for child can be appointed.

- **Whānau Ora:** The establishment of Whānau Ora does not absolve other government agencies from on-going responsibilities towards Māori.

iv. Civil rights and freedoms

The Government was commended on

- **Preserving identity:** The increased consideration of Māori and Pasifika culture was acknowledged and commended along with a further call to include reference to other ethnic groups. The Pacific Languages Framework was commended for being a good example of progress and implementation of initiatives.
- **Privacy:** There are growing concerns about safety because of children's increased access to digital platforms. The amendments to the Privacy Act 1993 and Harmful Digital Communications Bill which is currently before Parliament were commended. Protection of privacy for disabled children was highlighted as important due to their reliance on others to represent their preferences and best interests.

There were gaps in the Report

- **Bioethical issues:** Information on what the Government is doing to address concerns about parents seeking surgery to sterilise their disabled children or keep them small.
- **Operation Eight:** Include information on how this police action affected the young people involved and the remedial measures taken.

Themes and issues identified by participants included

- **Sexuality and gender identity:** Further awareness and acknowledgement regarding sexuality and gender identity is needed. Awareness could be achieved through a stronger emphasis in the school curriculum.
- **Identity and whāngai:** The need to increase public understanding of traditional Māori adoption practices and ensure identity is protected.

v. Family environment and alternative care

The Government was commended on

- **Family Start:** This initiative was highlighted as a positive targeted intervention but it was noted that participation in these programmes is voluntary. Some families who may be most in need of support may choose not to engage or do not see it as a viable option for their family.
- **Increase in paid parental leave:** The Government has extended the current 14 week allowance of paid parental leave. From 1 April 2015 paid parental leave will increase to 16 weeks and from 1 April 2016 paid parental leave will increase to 18 weeks.

- **Family Violence:** The Government was commended for the strong focus on family violence prevention initiatives.

There were gaps in the Report

- **Alternative care:** It was submitted that the Report did not deal adequately with the experiences of children and young people in foster and residential care. More data about their health and education outcomes was requested.

Themes and issues identified by participants included

- **Family Dispute Resolution process:** There were concerns about the children's voice being lost in the Family Dispute Resolution process.
- **Appropriate alternative care:** The facilities that children in care live in need to be made more age appropriate. Similarly, disabled children in organised care are often placed in aged care settings and this is not in their best interests.
- **Separation from parents:** The lack of inclusion of fathers in services. GreatFathers and Father and Child programs are under resourced.
- **Adoption:** Reform of adoption law (including the Adoption Act 1955, the Adoption (Intercountry) Act 1997 and the Adult Adoption Information Act 1985) is needed to reflect current social and cultural attitudes towards adoption.
- **Whānau centric:** One submission said that the government should be taking a more whānau-centric approach rather than a child-centric approach, as they felt that this aligns with Māori values.

vi. Basic health and welfare

The Government was commended on

- **The 2013 Health Select Committee Report:** The inquiry into improving child health outcomes and preventing child abuse focused on pre-conception until three years of age. This was highlighted as action to better the basic health and welfare of children in New Zealand.
- **Zero fees doctors' visits:** The extension of the current zero fees for doctors' visits and prescription co-payments anytime of the day or night for children aged under six, to children aged under 13 was commended.
- **Breastfeeding:** The improvement in breastfeeding rates for Māori women was noted, as well as the continued significant investment in initiatives to improving breastfeeding rates for all women.

There were gaps in the Report

- **Christchurch Earthquake impact:** The impact that the earthquakes have had on children and young people's mental health.
- **Housing:** There was no information provided on housing, despite Government undertaking significant reform in this area. Concerns of submitters included the numbers of children in overcrowded housing, waiting lists for state houses, children living with transience, and children living in families that spend 30 percent or more of their income on housing.
- **Unintentional injury:** This should be acknowledged as a leading cause of death and hospitalisation for children aged 0-14 years in New Zealand.

Themes and issues identified by participants included

- **Child hardship:** Child hardship was identified as a continuing issue that the Government needed to do more to address. It was noted that minority groups such as Māori and Pasifika are over-represented in child hardship statistics, and that this leads to them experiencing poor outcomes in other areas, such as health and education.
- **Standard of living:** Submission raised the adequacy of benefits paid to children and families, and the effect of sanctions introduced as part of welfare reform.
- **Suicide:** A review of the availability of child and adolescent mental health services tailored specifically for Māori and Pasifika was advocated for.
- **Oral health:** Poor oral health in children was identified as an area needing further consideration.
- **Disabled children disproportionately represented:** Unmet health needs are more prevalent for disabled children than other children.

vii. Education, leisure and cultural activities

The Government was commended on

- **Early Childhood Education participation:** Submitters noted the substantial resource invested in increasing Early Childhood Education participation generally (BPS Result area 2 requires an increase in participation in ECE among children starting school to 98 percent by 2016), and amongst more vulnerable groups of children, such as Māori and Pasifika.
- **Trilingual resources for Māori deaf children:** Positive feedback was received about the Ministry of Education-funded trilingual resources for Māori deaf children to access Te Reo Māori and New Zealand sign language.

There were gaps in the Report

- **Access to education for children with disabilities:** More information on the access of children with disabilities to all types of education (ranging from ECE through to higher education) was requested. Submitters raised a 2014 IHC online survey of parents of disabled children, and education professionals and researchers, showed strong trends around experiences of discrimination. This survey reported that disabled children are being discouraged or denied enrolment at their local school.

Themes and issues identified by participants included

- **Free State education:** There was unease about the claim in the report that free State education is available for all domestic students from the age of five to 19. The report accurately represents the law but not the practice. In practice, schools commonly ask for donations at the beginning of each year. Parents feel obliged to pay for fear that if they do not pay, their children will miss out.
- **Early Support Worker funding for disabled children:** The Ministry of Education funding of up to 15 hours for an Early Support Worker for disabled children was seen as inadequate by some participants.
- **Inclusive education for disabled children:** Disabled children were identified as missing out on activities such as museum visits and school holiday programmes because there is not sufficient funding to meet special requirements.
- **Early Childhood Education for Māori and Pasifika:** A lack of culturally appropriate services and trained staff to accommodate the learning needs of Māori and Pasifika children.

viii. Special protection measures

The Government was commended on

- **Youth Crime Action Plan (YCAP):** The stated aim of the YCAP to reduce offending by children and young people and provide more appropriate responses to such offending was commended.

There were gaps in the Report

- **Canterbury earthquakes:** There was no information on the effect of the Canterbury earthquakes on children and young people in the region and the measures Government put in place immediately following to support families with children. There was also no information on New Zealand's improved emergency response to natural disasters following the Canterbury earthquakes.
- **OPCAT:** It was requested that we acknowledge the role of National Monitoring Mechanisms under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the recent visit of the Subcommittee against the Prevention of Torture in April 2013.

- **Forced and underage marriage:** Submitters requested a discussion of what the Government is doing to address forced and underage marriage.
- **Alternative responses to youth offending:** It was requested that we highlight the Rangitahi and Pasifika youth courts as a good example of a culturally appropriate response to youth offending.

Themes and issues identified by participants included

- **Age-mixing in detention:** Many submitters felt that age-mixing in places of detention that was not in the best interests of the young person involved was occurring.
- **Protection of witnesses and victims of crimes:** Submitters felt that the Government was not doing enough to protect children from the harmful effects of the court process.
- **Minority groups:** The need to consider other minority ethnic groups and migrants and refugees.

ix. Disability

The Government was commended on

- **First Signs:** The whānau sign language facilitator service.

Themes and issues identified by participants included

- **The lack of specialised services:** The lack of specialised services that guarantee equal opportunities for disabled children. Individual plans are not developed for children with autism or with conditions such as Foetal Alcohol Spectrum Disorder (FASD). This means that inclusive education opportunities are not always available.
- **Definition of disability:** FASD not being recognised as a disability means that there is a lack of services available for children with FASD.
- **Medical interventions for girls with disabilities:** Concerns over hysterectomies, sterilisation treatments and other medical intervention for girls with disabilities.

x. Ratification of international human rights instruments

The Government was commended on

- **Optional Protocol to the Convention on the Rights of Persons with Disabilities:** The work undertaken to ready New Zealand to become a party to this Optional Protocol was commended.

There were gaps in the Report

- **International reporting context:** Greater acknowledgment of the international reporting context was requested, including referencing the recent human rights reports New Zealand has submitted to the United Nations.