



Action for Children & Youth Aotearoa Incorporated

17 March 2009

Richard Kay
United Nations and Commonwealth Division
Ministry of Foreign Affairs and Trade
Private Bag 18-901
Wellington 5045

Dear Richard

Please find attached our submission on New Zealand's draft Universal Periodic Review report.

We very much appreciate the opportunity to make comment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alison Blaiklock', is written over a light blue horizontal line.

Alison Blaiklock
Chairperson

ACYA SUBMISSION TO THE DRAFT GOVERNMENT UNIVERSAL PERIODIC REVIEW, MAY 2009

BACKGROUND TO ACYA

1.1 Action for Children and Youth Aotearoa Incorporated (ACYA) is a coalition of non-governmental organizations, families and individuals whose purpose is to promote the well-being of children and young people in Aotearoa New Zealand through:

- education and advocacy on the rights of children and young people;
- encouraging the government to act on the recommendations of the United Nations Committee on the Rights of the Child; and
- promoting opportunities for the voice and participation of children and young people.

1.2 In 2003 ACYA produced and published *Children and Youth in Aotearoa 2003*, the New Zealand NGO Report on New Zealand's implementation of the UN Convention on the Rights of the Child (NGO Report). The NGO Report was presented to the UN Committee on the Rights of the Child in Geneva in June 2003, accompanied by a video funded by ACYA and produced by New Zealand children called *Whakarongo Mai / Listen Up*.

1.3 ACYA made a submission to the draft 3rd & 4th Periodic Report to the Committee on the Rights of the Child, subsequently the report was issued by Government to that Committee in November 2008.

1.4 This submission has been prepared by the ACYA Committee and the views expressed in it may not represent the views of each ACYA member.

1.5 Unless otherwise stated reference to paragraphs is that of the draft report in the following text.

OVERVIEW OF DRAFT SUBMISSION

Composition structure

Of the draft 27 pages the Introduction, Sections 1 & 2 cover 10 pages (37%). We believe these sections are too long given the importance of the subsequent text and issues raised with the need to comply with a length of text restriction.

Climate Change

Climate change poses a threat to the civil rights of our people especially those living in low lying areas, and most particularly for our citizens in the Pacific Islands.

Period covered by this report

We ask that the period covered be taken to February 2009. The new Government is taking steps which challenge protection under the Convention on the Rights of the Child. In addition NGOs have the ability to make supplementary submissions for the Convention Against Torture in March and there should be consistency in reporting to the UN.

Economic Downturn

There are serious concerns in society about the effects of the financial downturn with unemployment predicted to raise from 4% to 7%, and this will further increase disparities for the lower social economic groups including many children. In addition this will also affect our citizens in the Pacific Islands.

BACKGROUND OF COUNTRY

2.2 Relationship with Cook Islands, Niue and Tokelau.

The people of these countries are citizens of New Zealand and New Zealand has a duty to uphold, promote, protect and respect their rights as citizens.

Recommendation 1

Amend the opening paragraph by adding at the end of the first sentence "*and their people are citizens of New Zealand*"

2.4 International Commitments

There is no mention of the Reservations to these International Instruments. This is of particular concern because since 1993 the three reservations to the Convention on the Rights of the Child remain a stumbling block to implementing the Convention.

We have a major concern that the Children Young Persons and their Families (Youth Court Jurisdiction) Amendment Bill will if passed in its current form breach the Convention and the requirements of the Committee for the Rights of the Child to increase rather than reduce the age of criminal responsibility.

In the second paragraph there is reference to the Optional Protocol for Sale of Children (OPSC) and mention should be made that this was signed on 7th September 2000 but has not been ratified in the last nine years because of delays in reviewing adoption laws.

Recommendation 2

Add a new sentence to the end of the first paragraph: *A number of Reservations, particularly to CRC, remain in place.*

Recommendation 3

Amend the second sentence in the second paragraph to read: *New Zealand signed the Optional Protocol on the Sale of children in 2000 but will not ratify it until adoption reform is completed.*

PROMOTION AND PROTECTION OF HUMAN RIGHTS

3.1 Treaty of Waitangi and the Rights of Indigenous People.

The final paragraph addresses Declaration on the Rights of Indigenous Peoples. It states in the opening sentence that it could not support the declaration. No reasons are given. This is a major defect in the drafting of this paragraph and needs to be rectified.

Recommendation 4

An explanation needs to be given why the Government failed to support the Declaration.

3.2 Gender

The seventh paragraph addresses Working for Families. In view of the case, Child Poverty Action Group V Attorney General before the courts some mention needs to be made for the reasons the case was brought before HRRT and the current position.

The tenth paragraph addresses *Choices*, paid parental leave, amendments to flexible working hours legislation. These are noted. The availability of early childhood education and the extension of paid parental leave are important strategies for reducing child poverty and inequities.

Recommendation 5

Reference to CPAG V Attorney General hearing should be made as it goes to the heart of justice as it affects child poverty. Reference should also be made to the importance of the availability and accessibility of high quality early childhood education.

3.3 Children and Young People

The second paragraph states children are entitled to free primary and secondary education. This is not what happens in practice. Children with disabilities often experience problems accessing education – and this is demonstrated by IHC being in the process of bringing a claim to the Human Rights Commission for failure to provide adequate and consistent special education.

However we commend the 20 hours provision for 3 and 4 year olds in early childhood education which does facilitate access and participation.

The third paragraph explains the role of the Children's Commissioner. It states that "its budget was increased to NZ\$1.9 million for 2007/8. The OCC accounts reveal actual Crown revenue as 2006 \$2003112, 2007 \$1,948,112, and 2008 \$2,448112. The 2008 amount is covered by Note 2 to the accounts as a one off \$500,000. Our concern is that in real terms the OCC is underfunded to meet its obligations.

The fourth paragraph mentions *Agenda for children*. We have seen no evidence in the last three years that this document has had any influence on Government policy although its historic significance is quoted. No annual review has ever been accomplished (page 4 of booklet).

The fifth paragraph does identify disparities of outcomes and challenges to be met.

The report should include information from important and recent reports from the Children's Commissioner on child poverty and the Children's Commissioner and Human Rights Commissioner on violence in schools.

Pathways to Partnership does not cover *all* essential social services, such as those relating to disabled children and young people and that there is only partial funding for essential vocational services especially for the key transition from school to employment/community.

No mention is made of the recent 3rd & 4th Periodic Report to the Committee on the Rights of the Child or the Five Year work Programme 2004-8, which although patchy in its outcomes over the period was a sound initiative.

Recommendation 6

That in terms of paragraph 3.3 the following be addressed

- a) Qualify the "free education" statement, and make mention of the IHC case
- b) Restate the Revenue for the Office of the Children's Commissioner.
- c) Qualify the place of *Agenda for Children* in the current policy direction for children.
- d) Expand on the disparities of outcomes and challenges.
- e) Include key information from recent reports from the Children's Commissioner and Human Rights Commission on child poverty and violence in schools.
- f) State the latest report to the Committee on the Rights of the Child.

3.5 Violence within Families

Noted in the last three paragraphs reference to children. In respect of *Taskforce for Action* some reference should be made of the recent addition of this project of the need to address experience of children.

In respect of S59 the Public Referendum needs to be mentioned.

Recommendation 7

- a) the text for the *Taskforce for action* should include reference to children
- b) reference to the Public Referendum for S59 should be included in the text

3.6 People with disabilities

This section needs expansion, especially in view of the important leadership demonstrated by New Zealand in developing the CRPRD and the key human rights priorities being identified as including the implementation of the CRPRD and the NZ Disability Strategy.

The report needs to reflect the real issues – for example, less than one percent of Kiwi carers of disabled children and young people are satisfied with the supports provided to their family according to the Carers' Assessment of Needs (CAN); only 10 of the 300 carers interviewed have been able to remain in paid employment due to the commitments of providing support for a friend or family member; and two thirds of carers in the CAN project have experienced depression www.carers.net.nz.

Recommendation 8

Expand on the section on people with disabilities with special attention to the challenges (such as access to education) facing children with disabilities and their families.

Identification of Achievements, Best practices, Challenges and Constraints

4.1.2 Increased resources for Child Health

We question the statement as regards “children”(as opposed to others) that \$2.2 billion additional funding for 2002 to 2008 has been allocated. The reports to the Committee on the Rights of the Child have always stated that figures for disaggregated data on budget allocations is not available (paragraph 1.52 of the latest report, but see also paragraph 6.5 now stated in this text).

4.2.2 Human Rights and countering terrorism

We understand this refers to Operation 8 (Ruatoki). Children were involved in the event and reference should be made to their experience.

Recommendation 9

- a) the increase of budget quoted in 4.1.2 should be validated to ensure it only applies directly to children.
- b) In respect of the events outlined in paragraph 4.2.2 comment should be made that children were caught up in this event and need counselling.

ANNEX A TOKELAU

Of the 1,466 people approximately 600 are children. In the recent report to CRC a statement is made that “basic services available on the islands, such as healthcare and education, should be at least equivalent to those available in remote areas of New Zealand.” Note the use of the word “should” and no definition is given to how to define “remote rural areas of NZ”. Our concern has been for some years that no independent review of the wellbeing of children has ever been carried out. Correspondence with MFaT has not satisfied us that as New Zealand citizens Tokelauan children’s wellbeing is adequately protected.

Recommendation 9

That the text in Annex A, notes the number of children, the lack of protection in the absence of ratification of CRC, and the absence of any qualified appraisal of the wellbeing of children who are citizens of New Zealand.