



# Convention on the Rights of the Child

Distr.: General  
27 May 2011  
English  
Original: French

---

## Committee on the Rights of the Child Fifty-sixth session

### Summary record of the 1589th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 19 January 2011, at 3 p.m.

*Chairperson:* Ms. Lee

## Contents

Consideration of reports submitted by States parties (*continued*)

*Combined third and fourth periodic reports of New Zealand on the implementation of the Convention on the Rights of the Child (continued)*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 3.15 p.m.*

**Consideration of reports submitted by States parties** *(continued)*

*Combined third and fourth periodic reports of New Zealand on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/NZL/3-4; CRC/C/NZL/Q/3-4; CRC/C/NZL/Q/3-4/Add.1)*

1. *At the invitation of the Chairperson, the delegation of New Zealand took places at the Committee table.*
2. **Mr. Keith** (New Zealand) said that the country's anti-discrimination legislation prohibited discrimination on the grounds of family status, sexual orientation and race. Information materials designed to raise awareness of those provisions had been widely distributed among young people by the Human Rights Commission.
3. The use of tasers was very tightly controlled and regulated. Tasers could be carried only by trained police officers and were used very sparingly, having assumed a largely deterrent role in recent years. Control procedures and legal safeguards were rigorously respected and tasers had not been used on young people.
4. **Ms. Hinton** (New Zealand) confirmed that official development assistance had fallen in 2009 due to a reduction in all public expenditure, but emphasized that the amount allocated to aid was reviewed every year.
5. **Ms. Mackwell** (New Zealand) said that the educational achievements of young Maoris had been improving steadily in recent years thanks to various successful initiatives, but that the gap relative to other population groups was still very pronounced. Various measures had been adopted in an attempt to reduce the disparity, including training programmes for Maori teachers and the Ka Hikitia 2008–2012 initiative.
6. In spite of the recession, the Government had maintained and even increased the social assistance extended to disadvantaged socio-economic groups such as single parents, who received benefits under the Working for Families initiative. More than 50 per cent of lone parents were Maori, most of them women. The Government had also agreed financial compensation for low-income families to offset the increase in value added tax (VAT).
7. **Ms. Herczog** (Country Rapporteur) asked what measures were in place to help disadvantaged Maori parents access the labour market.
8. **Ms. Ortiz** asked whether school curricula were developed in consultation with the Maori and whether they were responsive to their needs and their culture. She also asked whether the right to land of indigenous peoples was respected.
9. **Ms. Mackwell** (New Zealand) said that the Maori were not discriminated against in any way, but that accessing services was sometimes difficult for them and the services on offer were sometimes inappropriate.
10. The Minister of Maori Affairs worked in conjunction with other ministers to ensure that the interests of the Maori were systematically taken into account. Over the past 10 years, concerted action by civil society organizations and the New Zealand Government had significantly improved access to social services among the Maori and Pacific islander populations. In addition, Maori people were increasingly joining forces to develop their own social services, which was a positive development.
11. The authorities had established a system of financial compensation for grievances regarding land confiscation and for other claims put forward under the Treaty of Waitangi.
12. **The Chairperson** said that the difficulties that the Maori experienced in accessing services constituted indirect discrimination, and sought the delegation's opinion on that

point. Noting that indicators for health and employment and other variables showed Maori and Pacific island peoples to be disadvantaged relative to the population of European ancestry, she suggested that the State party should seek greater input from indigenous peoples when formulating social policies.

13. **Ms. Mackwell** (New Zealand) said that policies were formulated in direct consultation with the Maori, through the Ministry responsible for Maori Affairs. For example, participation by indigenous stakeholders had made it possible to carry out a campaign against domestic violence in Maori communities.

14. Family group conferences were used with increasing frequency to defuse difficult social situations and resolve relationship problems between parents and children. In recent years, family group conferences had most often been called following acts of emotional abuse. There had been a decline in sexual violence.

15. When the Committee had considered the last periodic report submitted by New Zealand, procedures for placing at-risk children in care had not been clearly defined and the training provided to social workers was inadequate. That situation had improved markedly and care professionals were better equipped to respond to complaints of abuse and channel those affected towards the relevant services. The focus had switched to prevention and reconciliation, and, in the case of young people in conflict with the law, support and reintegration.

16. **Mr. Keith** (New Zealand) said that the adoption legislation had been passed in 1955 and had not been revised since, but that a review was planned. However, the principles enshrined in the Convention, specifically the principle that the views of the child should be given due weight in accordance with their age and maturity and the principle of the best interests of the child, were duly respected in practice.

17. The intercountry adoption statute enshrined the principles of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The authorities were entitled to review adoptions involving children from countries that were not parties to the Hague Convention.

18. Maori customary adoptions differed from legal adoptions in that they placed more emphasis on family continuity than on the legal transfer of parental authority. Inheritance rights were, however, taken into consideration.

19. A bill criminalizing the use of fraudulent means to obtain consent for an adoption was in the drafting stages. Once the bill was adopted, New Zealand would be in a position to ratify the Optional Protocol on the sale of children, child prostitution and child pornography.

20. **Mr. Tuohy** (New Zealand) said that the incidence of HIV/AIDS had fallen steadily in the past three years. He acknowledged that the majority of persons affected were of non-European ancestry, but was not able to confirm reports that the infection rate among Maori people was rising. Research carried out for the Ministry of Health indicated that persons affected by HIV/AIDS were generally satisfied with the services they received, but there had been complaints about difficulties accessing mental health services and about the fees charged for general medical services. Pregnant women were offered an HIV test at the start of their pregnancy. HIV/AIDS was covered in the health and sex education programmes given at secondary schools.

21. Vast disparities in child health were the main reason for the country's low standing in the rankings recently published by the Organization for Economic Cooperation and Development (OECD) in respect of various health questions. The Government was working hard to remedy that situation through health and education initiatives including the Whānau Ora (healthy families) programme, under which State support was provided for measures

designed and implemented by communities and families themselves. The Government was working to improve the quality of maternity care in regions populated primarily by people of non-European ancestry. It had also introduced a programme under which every New Zealand child was regularly seen by a nurse. A number of issues continued to pose problems, particularly the question of how to subsidize primary health-care services.

22. The infant mortality rate had fallen considerably over the past 15 years, placing New Zealand at the middle of the OECD rankings. Although the mortality rate was higher among Maori children than among children of European origin, the gap was narrowing. Sudden unexpected deaths in infancy were two times more frequent among Maori children than among children of European ancestry, mainly because a very high proportion of Maori women smoked during pregnancy and because, for cultural reasons, adult-infant bed sharing was common in Maori communities, which increased the risk of sudden death.

23. With regard to nutrition, the Government was engaged in a number of campaigns to promote breastfeeding and combat obesity and reduce the number of overweight children. The latter problems affected 8 per cent and 21 per cent of children, respectively. A number of family-focused services had also been introduced, including a comprehensive health assessment for all children when they reached the age of 4, in accordance with standards established by the World Health Organization.

24. **Mr. Kotrane** urged the State party to complete the task of harmonizing domestic legislation on child labour with the relevant international standards and to ratify the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138). New Zealand law permitted children to work in certain situations, and to leave school to do so. However, information brought to the Committee's attention indicated that the wages paid to children were, at least initially, too low. In many cases, children had no contract and were not informed of their rights. Supervision of the conditions in which children worked was inadequate.

25. The age of criminal responsibility had reportedly been lowered from 14 to 12 years. That change indicated that the best interests of the child were no longer the main consideration in decisions concerning juvenile justice. What did the Government plan to do to rectify that situation?

26. Recalling that the Committee had expressed concern about the detention of children in police cells in its previous concluding observations, he asked whether the situation had changed and how long a child could be held in custody without being brought before a judge. He would also like to know whether New Zealand legislation contained specific provisions regulating the pretrial detention of children or whether children were subject to the same provisions as adults. Lastly, he sought clarification about the treatment of 17-year-olds, who were apparently excluded from the criminal protection that should be accorded to all children until they reached the age of 18.

27. **Mr. Zermatten** noted with regret that the State party had made the domestic legislation affecting minors more severe. The Committee had already expressed concern that children as young as 10 could be tried for murder and had urged the State party to raise the age of criminal responsibility. Not only had the State party not raised the age of criminal responsibility but it had actually lowered it, from 14 to 12 years, for serious, persistent offending. Children of 12 years of age could therefore be deprived of their liberty, which the Committee found worrying. Furthermore, in the absence of a clear definition it was left to the police to decide what constituted serious, persistent offending. The State party maintained that the lack of precision allowed the authorities to take preventive action more promptly. However, according to the data provided, only 80 children between 12 and 14 years of age had been affected by that measure. Given the small number of cases concerned, the wisdom of the State party's decision to give a punitive bias

to its legislation was questionable. The Committee was convinced that protection measures of a non-criminal nature would be a more appropriate response to the offences committed, even those of a serious nature.

28. In another example of the greater severity in New Zealand legislation, the Youth Court had been given the possibility of referring cases considered outside its jurisdiction to the district court and the age at which children could be subject to such decisions, and therefore receive the same sentence as an adult charged with a comparable offence, had been lowered from 15 to 14 years. In addition, the maximum custodial sentence had been extended from 3 to 6 months.

29. The use of military-style correction gave rise to a number of concerns. The small number of children granted probation was also surprising, and it was regrettable that family group conferencing was used less frequently than in the past. Those and other factors together gave the impression that, in the area of juvenile justice, the State party was moving away from a protective and restorative approach towards a more punitive one.

30. He would like to know whether children arrested under the anti-terrorism legislation were treated as adults or as children. He also sought information about the policy applying to the use of tasers on children.

31. **Ms. Al-Asmar** asked whether children in custody had access to education. Foreign children did not have access to free schooling. What action was taken when their families could not afford tuition? Lastly, she asked whether children with disabilities had equal access to leisure facilities and enjoyed the same educational opportunities as other children.

32. **Ms. El-Ashmawy**, noting that the legislation against human trafficking adopted in 2002 also covered smuggling, asked why the State party had decided to use the same legislation to penalize offences that were of two different types. She asked the delegation to explain what acts constituted trafficking in human beings under the provisions of that law and whether the principle of extraterritoriality was taken into consideration.

33. Details of the reception and rehabilitation services available for victims of human trafficking should be provided, including information about shelters and coordination between such structures and law enforcement agencies and civil society. Information on strategies for addressing the primary causes of trafficking and protecting victims and witnesses would also be useful. For example, were those who had contact with victims trained to ensure that they treated them as victims and not as perpetrators? She would also like to know more about the telephone helpline services established, including an explanation as to why they did not operate round the clock. The delegation should also provide disaggregated data on the number of prosecutions for trafficking in human beings brought to date. Lastly, she asked about the degree of business involvement in anti-trafficking initiatives.

34. **Mr. Citarella** asked whether forms of traditional justice based on customary law were used in Maori communities and the indigenous communities of the Pacific islands, particularly where children were concerned. What measures were envisaged in domestic legislation to allow children involved in criminal proceedings to be heard, and what technical means were used to prevent direct contact between children and adults involved in the same case?

35. **Mr. Koompraphant**, referring to paragraph 234 of the report, which stated that notifications of suspected child abuse or neglect had increased since 2004, asked whether the State party had a system for monitoring children's living conditions and how it measured how effective its awareness-raising campaigns and preventive measures had been.

36. **Ms. Herczog** (Country Rapporteur) asked whether there was any evidence that the juvenile justice system was more effective than the child protection system, in particular for preventing recidivism, and that would thus justify lowering the minimum age of criminal prosecution. She also asked what action the Government planned to take to ensure that children were not detained in police cells for more than 24 hours and whether any State-funded legal aid guaranteed access to counsel for minors from the moment the preliminary investigation was initiated.

37. **The Chairperson** asked whether children who were non-nationals had access to education and sought clarification regarding the system of voluntary parental donations to schools. Indigenous peoples tended to live in concentrated communities, which could result in de facto segregation in schools. What steps could the Government take to prevent such situations? Was there a mechanism responsible for overseeing implementation of Government policies in favour of children with disabilities? Referring to the concluding observations of the Committee against Torture (CAT/C/NZL/CO/5), she requested additional information on the use of tasers, especially on young people.

38. The New Zealand authorities' decision to keep the minimum age of voluntary recruitment to the armed forces at 17 years and thus to continue attracting young people who had not yet completed their secondary education was of great concern. More detail about the military activities and the military-style activity camps for young offenders of 12 and 13 years of age would also be appreciated.

*The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.*

39. **Ms. Mackwell** (New Zealand) said that the Government had invested massively in preschool education in the past 10 years. Free education had been introduced for all 3- and 4-year-olds and the Government was endeavouring to raise enrolment rates among Maori and Pacific islander children and to make the curricula more culturally appropriate for them. The Government had created a special unit tasked with examining the various funding possibilities for preschool education. All childcare services, whether public or private, were governed by the 2008 early childhood services regulations, which inter alia established minimum requirements for adult-to-child ratios.

40. Parents received a State childcare subsidy covering up to 50 hours of care per week and were entitled to 14 weeks' parental leave. In September 2010 the Office of the Children's Commissioner, in consultation with parents and early childhood specialists, had carried out an inquiry into the provision of care for children under the age of 2. It was due to publish its conclusions in February 2011.

41. The out-of-school and after-school care system was not as well established as the early childhood care system, and it was up to each school to decide whether or not to offer such services. Some local councils ran activity programmes to keep young people occupied during the school holidays.

42. **Mr. Keith** (New Zealand) said that non-nationals with residence permits valid for at least two years could enrol their children in State schools without charge. Non-nationals resident in New Zealand for less than two years could enrol their children in a State school, but would be required to pay school fees. The rationale for that policy was that some people entered the country on a tourist visa solely for the purpose of enrolling their children in New Zealand schools. Children who were present in New Zealand illegally, and therefore constituted a vulnerable group, had access to education without charge.

43. **Ms. Mackwell** (New Zealand) said that physical and emotional bullying in schools, including social networking harassment, were complex problems for which the Government was endeavouring to find solutions. Schools had an obligation to encourage positive behaviour, prevent bullying and provide support for victims.

44. Children with disabilities had the right to education on an equal footing with other children. The special education system had been subject to a detailed review and the provisions of the Convention on the Rights of Persons with Disabilities were taken very seriously. The State party's initial report under that Convention, which would be submitted to the Committee on the Rights of Persons with Disabilities very soon, set out the policies adopted and the measures taken by the Government to improve the situation of children with disabilities. New Zealand had a small number of special schools for speech-impaired and blind children, but its general policy was to integrate children with disabilities in mainstream schools.

45. **The Chairperson** asked why so many children identified as having special needs were excluded from the school system.

46. **Ms. Mackwell** (New Zealand) said that the review of the special education system had entailed a far-reaching process of consultation with special needs children and their parents and that the Government planned to take steps to remedy the problems identified as a result of that process.

47. **Ms. Herczog** (Country Rapporteur) asked whether the Government planned to adopt measures that would guarantee equivalent levels of funding for alternative education as for the rest of the school system.

48. **Ms. Mackwell** (New Zealand) said that 20 per cent of young people left school with few, if any, qualifications. To address that problem, the Government had announced a new policy, known as the Youth Guarantee, under which a range of mainly vocational education and training opportunities would be offered to young people over the age of 15 years or so who were tempted to leave school. The Government would shortly be taking a decision on the funding to be allocated to such forms of teaching.

49. Although parents were encouraged to make donations to schools, they were under no obligation to do so.

50. **Mr. Keith** (New Zealand) said that setting a minimum age of admission to employment would be incompatible with the current practice in youth employment. The authorities took the view that it was better to strengthen existing safeguards and did not for the time being envisage ratifying ILO Convention No. 138. School attendance was nonetheless compulsory until the age of 16.

51. Age-based minimum wages for young people had been abolished but young people gaining work experience on limited-term internships received a training wage.

52. Under New Zealand law the distinction between migrant smuggling and trafficking in human beings rested on whether or not the persons involved were willing participants. A national action plan had been drawn up to prevent those problems and make employers aware that they had a responsibility to verify that their employees were in a regular situation. Information pamphlets for potential victims had been drafted in the main migrant languages and a dedicated telephone helpline through which suspected cases could be reported and victims could seek assistance had been introduced. Since 2004, the courts had heard a total of 15 cases involving either smuggling or trafficking.

53. To ensure that the views of the child were respected, the New Zealand Government covered the fees of lawyers appointed to represent children in criminal proceedings or family group conferences. It was mandatory for children to have access to counsel from the outset of any criminal proceedings.

54. If the minimum age of recruitment to the armed forces had not been raised to 18 years it was to ensure that 17-year-old school leavers had a choice of either taking up a trade within the armed forces or pursuing a career in another sector of activity.

55. As follow-up to the concluding observations issued by the Committee following consideration of the second periodic report of New Zealand (CRC/C/93/Add.4), the New Zealand Government had adopted legal provisions prohibiting the direct participation of minors in armed conflict.

56. Programmes for young offenders were referred to as “military-style” because they were run by members of the armed forces. They did not involve military training and did not aim to attract new recruits.

57. **Ms. Mackwell** (New Zealand) said that, under the new juvenile justice provisions, children under 10 years of age were not held criminally responsible and could not be prosecuted in a criminal court. Children between 10 and 13 years of age could be subject to criminal prosecution only if charged with murder or manslaughter. Criminal prosecutions were also possible in the case of children aged 12 or 13 who committed grievous bodily harm punishable by life imprisonment or a custodial sentence of at least 14 years and previous offenders charged with offences carrying a sentence of 10 years or more of imprisonment. However, it should be emphasized that almost 7,900 children were arrested by police officers each year and were subject for the most part to non-judicial rather than punitive measures. As a general rule, every effort was made to ensure that children aged between 10 and 13 years were not brought before the courts. Furthermore, no child had been subject to Youth Court jurisdiction since the new legislation had been adopted in October 2010.

58. Under the new legislation, when a child between 10 and 13 years of age was prosecuted for murder or manslaughter, the case was dealt with in the High Court in the same manner as a charge against an adult, although the preliminary hearing took place in the Youth Court. All other cases involving children in that age bracket were dealt with in the Family Court.

59. **Mr. Zermatten** said that he did not understand how the State party could claim to be favouring measures which avoided court appearances when, in lowering the age of criminal responsibility, it was paving the way for punitive measures.

60. **Ms. Ortiz** said that the high reoffending rate should prompt the State party to question the efficacy of deprivation of liberty. Given the especially high number of young Maori prisoners, she urged the State party to consider adopting more culturally appropriate measures.

61. **Mr. Kotrane** asked whether the State party envisaged initiating a nationwide debate on youth offending, particularly in the media, which might secure a change of attitudes and convince public opinion that prevention and social rehabilitation were preferable to repression.

62. **Ms. Mackwell** (New Zealand) explained that it was the rise in serious crimes committed by minors that had led the legislature to adopt a more punitive system of justice, seeking in particular to assuage the concerns of a public deeply troubled by what had been reported in the media.

63. Under the new legislation on juvenile justice, the Youth Courts could order young offenders who were drug or alcohol abusers to join a detoxification programme or even to undergo psychotherapy. While the new legislation was more punitive in certain respects, it also offered new tools, such as the military-style activity camps.

64. **The Chairperson** said that she was not convinced that placing young offenders in military-style camps was an appropriate solution and rebutted the argument that the increase in serious crime justified tightening the law. On the contrary: an increase in violence was proof that the system had failed. She urged the State party to consider other solutions.

65. **Ms. Herczog** (Country Rapporteur) welcomed the intensive and detailed dialogue with the New Zealand delegation and thanked its members for their openness.

66. **Ms. Mackwell** (New Zealand) thanked the Committee for the constructive dialogue and assured members that she would pass their observations on to the New Zealand Government.

*The meeting rose at 5.50 p.m.*