Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

New Zealand - 5th Session - 2009
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State National Report

9. New Zealand is party to most of the major international human rights instruments including ICCPR, ICESCR, ICERD, CEDAW, CAT, and CRC. New Zealand ratified the Convention on the Rights of Persons with Disabilities (CRPD) in September 2008.

10. New Zealand is party to the Optional Protocols of ICCPR, CEDAW, CAT and CRC. New Zealand signed the Second Optional Protocol to CRC in 2000 and ratification is being progressed. New Zealand supported the adoption of the Optional Protocol to ICESCR by the United Nations General Assembly in November 2008 and will consider ratification in due course along with the Optional Protocol to CRPD. New Zealand is not party to ICRMW6, CED and the Convention relating to the Status of Stateless Persons. In September 2007, the previous Government did not support the adoption of the United Nations Declaration of the Rights of Indigenous Peoples (DRIP). New Zealand also has reservations in place under ICESCR, ICCPR, CAT, and CRC.

18. Special constitutional relationships exist between New Zealand and the Cook Islands, Niue and Tokelau (see annex to the present report). The Cook Islands became self-governing in free association with New Zealand in 1965 and Niue followed in 1974. Both countries have the power to make their own laws and enter into treaties including international human rights instruments. The Cook Islands is party to CEDAW and its Optional Protocol and CRC. Niue is party to CRC. They are responsible for the implementation of their international human rights obligations. Since 1988, treaties entered into by the New Zealand Government have not been regarded as extending to the Cook Islands or Niue unless expressly stated. Prior to 1988, New Zealand treaty action extended the application of a number of human rights instruments to the Cook Islands and Niue, including ICCPR and its first Optional Protocol, ICESCR, CERD and CEDAW (for Niue only).

30. The Children’s Commissioner was established in 1989 to advocate for the wellbeing of all children and young people up to eighteen years old including promoting their participation in decision-making processes, raising awareness of children’s interests, rights and welfare and monitoring the application of CRC in Government agencies and entities.

37. Despite recent socio-economic improvements, inequalities still persist for Māori in education, health, employment and income. In 2007 10.1 per cent of Māori students left school with little or no attainment compared to 3.5 per cent of New Zealand European, which is an improvement on previous years. In the year ended December 2007, just 9 per cent of Māori held a tertiary qualification at bachelor’s degree level or above compared with 22 per cent of European. In 2000-02 (the most recent years for which data is available) Māori female life expectancy was 73.2 years, 8.7 years below that of non-Māori females (81.9 years), and Māori male life expectancy was 69.0 years, 8.2 years below that of non-Māori males (77.2 years). Māori are also more likely to be unemployed than European and earn less.

39. The Government is also working towards the development and implementation of the Māori Potential Approach across the public sector. Te Puni Kokiri (Ministry of Māori Development) is leading this work in cooperation with other Government departments and community groups. This approach is intended to guide the development and implementation of public policy that is derived from and reflects the strengths and aspirations of Māori. For example, the Government is implementing a specific Māori education strategy, which has been developed to focus Government, school and teacher practice on lifting the achievement of Māori students through evidence based practice.

44. Women have better overall health outcomes than men. Women’s preventative health services have also improved with the introduction of free immunisation for girls and young women aged between twelve to eighteen years against the cause of most cervical
cancers and free biennial breast cancer screening for women aged 45–69. An independent review conducted by the Perinatal and Maternal Mortality Review Committee has recognised the need for more comprehensive reporting of perinatal and maternal deaths that includes not only ‘direct’ maternal deaths, but also ‘indirect’ deaths including those related to surgery, psychiatric illness and family violence. The review also stressed the need for continued support for national reporting of maternal deaths, to identify women at risk due to poor maternal mental health, and for further detailed analysis of the higher rate of stillbirths and neonatal deaths among Māori and Pacific Island women.

54. Violence within families affects the lives of thousands of people in New Zealand. The research on the New Zealand experience of violence within families tells us that men are responsible for two-thirds of the deaths of children aged 14 or under. Victims of the most severe and lethal cases of family violence are predominantly women and children. Family violence is a problem that affects families from all cultures, classes, backgrounds and socio-economic circumstances. However, Māori are significantly over-represented as both victims and perpetrators of violence in families. Violence experienced by gay, lesbian and transgender people in relationships with family and others also remains a problem.

52. The CRC Committee has previously expressed concern that section 59 of the Crimes Act 1961 allowed physical force by a parent or caregiver as a means of correcting a child’s behaviour provided the force was reasonable in the circumstances. In June 2007 section 59 of the Crimes Act 1961 was repealed and substituted with a new provision stating that there is no justification for the use of force for the purpose of correction. With this measure, New Zealand became the 18th country in the world to ban the use of corrective force on children. A referendum on the use of physical force for the purposes of correction will be held in 2009.

53. The Government has also taken steps to improve the performance of the government agency known as Child Youth and Family, which is responsible for providing care and protection and youth justice services to children and young people in New Zealand.

54. While Government programmes have targeted the problem, many children and parents remain concerned about bullying, both at school and in the wider community. There is a concern that there is too much bullying and too little intervention.

55. The age that young children of female prisoners can stay with their mothers in prison was raised from six months to two years under the Corrections (Mothers and Babies) Amendment Act 2008. Placement must be in the best interests of the child and enables bonding, feeding, continuity of care and access to parenting education programmes. The amendment will be implemented once appropriate facilities are available to accommodate the older children.

56. New Zealand is currently reviewing its practices relating to the separation of young people deprived of their liberty from adults, as part of an ongoing review of its reservation to Article 37(c) of CRC. New Zealand is compliant with Article 37(c) regarding age-mixing in prisons. In 2005, the Department of Corrections completed four specialist youth units in male prisons to ensure that there are sufficient beds to accommodate youth offenders separately from adults. Females under the age of eighteen are also separated from those eighteen and over unless it is in their best interest to be mixed with older prisoners. The low number of female prisoners under the age of eighteen (typically fewer than five at any time) makes a female youth unit facility unviable. A ‘test of best interests’ has also been developed to facilitate age-mixing of vulnerable eighteen and nineteen year olds with under eighteen-year olds, where this is in the best interests of the under-eighteen year olds and the vulnerable eighteen and nineteen year olds.

57. Further work is required regarding custody facilities, especially court cells and with Police transporting under-eighteen year olds to ensure full compliance with Article 37(c). Prisoners aged seventeen or under are generally held separate from adults when being transported or held in court cells. This is not always possible because of the limitations of existing facilities, particularly in small, remote courthouses. A national interagency protocol has been developed to reduce instances of age mixing when transporting prisoners.

58. New Zealand has a youth justice system that covers children aged ten to thirteen years old and young people aged fourteen to sixteen years old. The system aims to resolve offending and hold the young offender to account while keeping them out of the formal justice system unless the public interest requires otherwise.

59. The Government is concerned about serious and persistent child and youth offenders. In February 2009, the Government introduced the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Bill. The Bill is intended to improve and extend the current range of options for responding to serious and persistent offending by children and young people. The measures in the Bill aim to address the specific underlying causes of serious offending by twelve to sixteen year olds so that they do not re-offend and go on to lead socially responsible and beneficial lives.

60. Good progress towards the full realisation of the right to work has been achieved in New Zealand. There is legislation that recognises the rights of employers and employees in relation to pay, safe working conditions, employment protection and protection from discrimination. Government initiatives support work-life balance, and family-friendly and flexible working arrangements.

61. Despite progress challenges do remain, particularly in the current economic climate: (f) Unemployment rates for youth remain higher than for people of other ages, and work is underway to address this through focussing on the importance of education and training for those aged sixteen and seventeen years. Unemployment rates for Māori and Pacific youth remain well above the rate for other youth.

62. New Zealand has a comprehensive social security system that provides care and protection to vulnerable children and young people; employment services, income support and superannuation services; funding to community service providers; and student allowances and loans for tertiary education.

63. The current global economic climate will create challenges for those most vulnerable groups in society such as children. In August
87. The provision of adequate housing remains a challenge for New Zealand, especially in terms of affordability and habitability. Vulnerable groups such as Māori and Pacific peoples are over-represented in rental and crowded housing. This over-representation correlates closely with low income, poor health and lower educational achievement by children and young people. The Housing New Zealand Corporation is responsible for providing housing services for people in need. Over NZ$100 million will be spent on upgrading existing state homes, and $NZ20 million is to be spent on building new homes. This will help ease pressure on Housing New Zealand’s waiting list for state rental accommodation and will improve the habitability of more than 18,000 homes. Further policy initiatives and legislative changes will be introduced later this year to improve housing affordability.

88. New Zealand has a publicly funded health system. In 2008/09, health is the second largest area of public spending at NZ$12billion. Although good progress has been made, the Government acknowledges that significant challenges remain in the availability and quality of health services. The disparities in health outcomes, including the suicide rate, remain unacceptably high for Māori and Pacific peoples. Our youth suicide death rates remains high compared to OECD countries.

92. Every New Zealand child has the right to free primary and secondary education at a state school (unless the child is a foreign student or they are in New Zealand unlawfully). Any child who is in New Zealand unlawfully, and whose parent or parents are also in New Zealand unlawfully but are attempting to regularise the family’s immigration status, may be granted a Limited Purpose Permit in order to access publicly funded education. When passed into law, the Immigration Bill will remove the legal barrier for children unlawfully in New Zealand to access free primary and secondary education.

93. The Government also provides funding to early childhood and tertiary education providers. Education is compulsory between the ages of six and sixteen years. The core principles of the new national education curriculum, which will come into effect in February 2010, acknowledge the importance of human rights, the Treaty of Waitangi, cultural diversity and inclusion (being non-sexist, non-racist and non-discriminatory).

94. In recent years, the education outcomes for young people in New Zealand have improved. The qualifications of school leavers have increased, but the system continues to under-perform for specific groups of learners such as children with disabilities and students from poor families. Long-standing educational disparities remain for Māori. The Government has recently begun work to establish national standards in literacy and numeracy, which will set expectations of what students should achieve and by when. Key elements of this work include reporting students’ progress against standards to parents in plain language, and assisting students not meeting the standards. To address truancy, the Government has provided extra support for schools and introduced fines for parents of truant children, with heavier fines for repeat offenders.

95. As noted earlier in the report, Māori are more likely to leave school with little or no formal attainment, and are over-represented among early school leavers. Work is underway to investigate how to improve the educational achievement of Māori in mainstream secondary schools. A professional development programme has been developed for teachers to address the specific needs of Māori students. Diversity of schooling is provided in certain areas by 73 Māori language immersion schools. These are state schools in which Māori language, cultures and values predominate. Other Māori education tools include a Māori version of the New Zealand curriculum, Māori tertiary institutions, Māori language immersion courses for practising teachers and Māori language immersion early childhood centres.

96. Disparities in educational attainment are emerging between males and females. Young women are achieving higher levels of attainment in secondary education than young men, and are more likely to hold a tertiary qualification. The Ministry of Education has established a reference group to address the lower level of achievement of boys. Young Māori and Pacific women also have lower levels of attainment compared to European and Asian women and women from other ethnic groups.

97. Students with disabilities have the same right to attend a mainstream state school as any other child. The education system provides communication, behavioural, physical support and early intervention services for students with special needs, including those with disabilities. Depending on the need, special units, classrooms and schools are available, but these are still part of the general education system. There are still challenges in this area, particularly in relation to improving access to these educational services for students with special needs.

110. The Government has a settlement strategy for new migrants, which focuses on positive relationships with host communities, employment, English language ability, access to information and services, supportive social networks, safety, and participation to help the transition to living in New Zealand. In addition, the Settlement Support New Zealand initiative has been established in nineteen locations throughout the country as a clear point of contact for newcomers to access appropriate local information and referrals to responsive services. English for Speakers of Other Languages (ESOL) is provided to school students, and an Adult ESOL Strategy was launched in May 2003. The OE also manages Language Line, a free professional telephone interpreting service to enable people with limited or no English to access Government services. The service operates in 39 languages. Support services provided to spontaneous refugees awaiting decisions on their cases, and conditions surrounding the detention of asylum seekers in prisons have been raised as issues within New Zealand.

Transnational Crime to prevent people smuggling and trafficking.

116. The key priorities of the New Zealand Government as noted in the present report are: (b) Reducing violence within families and its impact on women and children; (c) Improving the opportunities and responsibilities of young people in New Zealand through the education and youth justice systems;

**OHCHR Compilation of UN information:**

1. Recommendations were made to New Zealand to ratify ICRMW, OP-CRC-SC, ILO fundamental Conventions Nos. 8710 and 138, 11 ILO Conventions Nos. 117 (Social Policy - Basic Aims and Standards Convention), 12 118 (Equality of Treatment - Social Security Convention), and 169 (concerning Indigenous and Tribal Peoples in Independent Countries), and the Convention relating to the Status of Stateless Persons.

4. The Committee on the Rights of the Child (CRC) recommended the withdrawal of reservations to the Convention, and continuation of discussions with Tokelau with a view to extending the application of the Convention to their territory. The Human Rights Committee (HR Committee) recommended the withdrawal of reservations to article 10 of the Covenant.

8. In 2003, CRC recommended that New Zealand initiate a comprehensive review of all legislation affecting children and harmonize its legislation with the Convention.

23. In 2003, CRC was concerned that children with disabilities are not fully integrated into all aspects of society and that services, in particular in the education system, are often difficult to access for families of children with disabilities.

26. CRC shared the State’s concern about the prevalence of child abuse, and regretted that services aimed at preventing abuse and providing assistance with recovery do not have sufficient resources and are insufficiently coordinated.

28. CEDAW was concerned that no cases of trafficking in women have been officially reported or prosecuted, despite indications of the existence of trafficking in women in New Zealand. It was also concerned about the exploitation of migrant women and girls in prostitution.

31. CAT in 2004 and CRC in 2003 expressed concern at the low age of criminal responsibility and at the fact that juveniles are sometimes not separated from adult detainees and have been detained in police cells, in some cases for several months, as further underlined by CRC.

39. The HR Committee and CESCRC welcomed the introduction of new legislation providing for a Government-funded parental leave scheme. While welcoming efforts to support women’s participation in employment and achieving a work-life balance, CEDAW remained concerned at the rates of participation in the labour force for mothers of young children and single mothers. It urged New Zealand to strengthen parental leave programmes for men and to encourage men to share child-rearing responsibilities with women. It recommended acting expeditiously to amend eligibility criteria to ensure that seasonal and temporary workers are eligible for paid parental leave; assessing the barriers that rural and Maori, Pacific and minority women face in accessing childcare and parental leave; and implementing measures to reduce these barriers and increase their access to such services.

40. CRC was concerned that the protection of persons under 18 in employment does not fully conform to the Convention, and about the lack of a minimum age of admission to employment. In 2008, the ILO Committee of Experts noted the Government’s intention to prohibit hazardous work for employees aged under 16 years (raising the restriction from 15 years), and hoped this would be done soon.

43. According to a 2008 World Health Organization report, health equity gaps between Aboriginal and non-Aboriginal populations have emerged as national political issues. CESCRC and CRC, in 2003, had expressed concern on this issue. Following his 2005 visit, the Special Rapporteur on indigenous people noted that Maori life expectancy is significantly lower (almost 10 years) than that of non-Maori, although they recently have made significant gains. In 2007, CEDAW expressed concern about the disparity in the life expectancies of women of European descent and women from other ethnic groups.

44. While noting with appreciation the availability of comprehensive health coverage and of free health services, CEDAW called on the State to improve the rates of access to health care and health-related services and information, especially for women who live in rural areas or who face cultural or language barriers in accessing health care. CRC, while welcoming the adoption of the Child Health Strategy, was concerned in 2003 that immunization coverage was not universal and that rates of infant mortality were relatively high. CRC was also concerned at the insufficient level of youth mental health services, particularly in rural areas and for Maori children and children in residential institutions.

45. CEDAW urged New Zealand to improve the provision of information on reproductive health and contraception and to promote widely sex education, with special attention to the prevention of sexually transmitted diseases and teenage pregnancy.

47. In 2007, while welcoming efforts to increase access to free education, CEDAW recommended funding schools adequately; ensuring that children from low-income families and families living in rural areas are not discriminated against in the provision of education; undertaking efforts to clarify and publicize the voluntary nature of payments requested by schools and monitoring the practices of schools regarding the collection of fees from parents. CRC was concerned in 2003 that increasing hidden costs of education are limiting access to education.

48. CERD recommended that public educational institutions be open to all undocumented children, without restrictions. New Zealand responded that the Immigration Bill will remove the offence for education providers to enrol children that are without the appropriate
49. CRC recommended enforcing legislation on compulsory education and prohibiting exclusions on arbitrary grounds such as pregnancy, and ensuring that students of the age of compulsory education who have legitimately been excluded from a school are enrolled elsewhere.

50. According to the Special Rapporteur on indigenous people, despite progress, the schooling system has been performing on average less well for Maori. Concern on this issue had been expressed by CESCt in 2003. The Special Rapporteur recommended that more resources be put at the disposal of Maori education at all levels, including teacher training programmes and the development of culturally appropriate teaching materials. Student fees should be lowered and allowances increased to stimulate the access of Maori to tertiary education.

65. CERD requested information to be submitted by August 2008 on the follow-up given to its recommendations with respect to the State’s proposal to remove statutory references to the Treaty of Waitangi through the Principles of the Treaty of Waitangi Deletion Bill (2006); on the follow-up given to its Decision 1 (66); on the inclusion of references to the Treaty of Waitangi in the final version of the New Zealand curriculum; and on unrestricted access to public educational institutions to undocumented children. The State has submitted its replies to CERD.

**OHCHR Summary of stakeholders’ information:**

1. Amnesty International Aotearoa New Zealand (AIANZ) noted that New Zealand has yet to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention Relating to the Status of Stateless People and the Convention for the Protection of All Persons from Enforced Disappearances. A Combined Coalitions Submission by 25 non-governmental organizations (NGOs) (Joint Submission 1 - JS1) added that New Zealand should set a time frame to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and NZEI Te Riu Roa (NZEI) recommended that it should ratify the Optional Protocol to International Covenant on Economic, Social and Cultural Rights.

4. NZHRC also acknowledged work to review reservations to United Nations human rights treaties. According to NZHRC and JS1, the State should withdraw its reservations to the Convention on the Rights of the Child (CRC).

5. Noting that Tokelau is a non-self governing territory, JS1 expressed concern that the 600 children of Tokelau, who are New Zealand citizens, are not protected by CRC.

12. The budget of the Office of the Commissioner for Children has not been increased for three years, as indicated by JS1. The newly elected Government has proposed the Office should be subsumed in other entities, which, in the view of JS1, would be opposed by children’s rights advocates.

15. There is no evidence of a policy for children and the Government does not have a comprehensive approach to the issues affecting children, according to JS1.

19. JS1 also noted a range of indicators demonstrating that Maori and Pacific children are systemically disadvantaged.

20. AIANZ underlined that both Maori people and migrant workers do not fully enjoy the right to non-discrimination, stressing in particular their limited access to healthcare and education.

21. NZEI recommended reforming law to close the gaps in the protection of women against discrimination. The Shakti Community Council Inc. (SCCI) noted that oppression, violence and discrimination against migrant and refugee women traditionally endorsed through culture, religious beliefs and society continue to prevail. There are examples of dowry, forced marriages, under-age marriages and polygamy in New Zealand. SCCI recommended that New Zealand be more proactive with regards to such abuse.

22. MHFNZ noted that social exclusion and discrimination has been endemic for people with experience of mental illness. NZHRC also noted that disabled people continue to face significant barriers to full participation in society. According to JS1, many children with disabilities have limited opportunities to enjoy their rights, especially their rights to education.

23. OUTline NZ and GenderBridge and NZHRC underlined the progress made by the Government regarding the human rights of the Gay, Lesbian, Bisexual, Transgender and Takataapui (GLBTT) community. OUTline NZ and GenderBridge acknowledged that the Civil Union Act and the Prostitution Law Reform Act are significant steps in this regard while stressing that more needs to be done. In particular, discrimination against GLBTT youth within their family as well from their peers leaves many of them isolated leading to depression and suicide. Minimal understanding or awareness of their needs from educational institutions leads to apathy and a lack of incentive to continue with their education or career. This situation is even more prevalent amongst transgender youth.

25. AIANZ welcomed the repeal of section 59 of the Crimes Act 1961 in 2007, as also noted by NZHRC. Explaining that the amendment removed the defence of reasonable force for parents who physically discipline their children, AIANZ was concerned however about plans for a referendum on this issue in 2009. JS1, also welcoming this change in legislation, stressed that rates of violence against children remain high and that services are stretched.

29. AIANZ recommended that the minimum age of criminal responsibility, currently at 10 for murder and manslaughter, be raised to an internationally acceptable level in accordance with the Human Rights Committee’s 2004 recommendation.

30. JS1 noted that there has been some progress made on separating boys under 18 years from adults in prisons.
31. Friends World Committee for Consultation (Quakers) noted the adoption of the Corrections (Mothers with Babies) Amendment Act 2008, raising the age until which a baby can stay with the imprisoned mother from six months to two years, and opening this possibility to all women prisoners. It expressed concern however about the possible separation of mother and child during pre-trial detention. Quakers recommended that New Zealand share their experience in relation to the drafting and application of this new legislation; and provide information on provisions made for mother and baby/child in prison and on how the principle of best interests of the child/baby is assessed.

33. AIANZ noted that despite a Civil Union Act, same sex partners suffer from a discriminatory law not allowing them to marry. OUTline NZ and GenderBridge added that that civil unions have not created equality in the area of parenting. A (heterosexual or homosexual) couple in a de-facto relationship or civil union couple can not adopt a child. The Adoption Law needs to be reformed to allow same-sex couples to adopt children.

42. CANZ referred to its surveys made in 2003 and 2007, which received wide media attention, relating to employment of children in breach of existing legislative protections. Examples included children working after 10 pm, or children under the age of 15 operating heavy machinery. Serious accidents and other health and safety concerns, extremely low pay rates, and very low levels of contract or union coverage were also areas of concern. While noting positive steps taken by the government, CANZ does not believe that working children are adequately protected by existing legislation and industrial relations framework. New Zealand Work and Labour Market Institute of Auckland University of Technology (NZWLMI) and JS1 expressed similar concerns.

45. According to AIANZ, child poverty statistics remain alarmingly high. International Presentation Association (IPA) added that a quarter of them are considered to be living in poverty. NZHRC added that the proportion of children living in poverty in families totally reliant on welfare benefits has increased to 52 percent.

46. NZHRC noted that there is no universally accepted poverty indicator in New Zealand. It recalled in 2003 the concern of the Committee on Economic, Social and Cultural Rights at the lack of clear indicators to estimate the effectiveness of measures to combat poverty. NZHRC recommended that New Zealand adopt a national plan to combat poverty with targets and a timeline and with clear indicators to assess its impact particularly on children, marginalised groups and Maori and Pacific people.

47. Discrimination and socioeconomic disparity have resulted in significantly reduced access to affordable healthcare for Maori, as noted by CS, which stressed that life expectancy for Maori is 7.6 years shorter than for non-Maori. Furthermore, suicide rates for Maori are much higher than non-Maori, and mental health services for Maori children and youth are lacking. The most successful healthcare improvements have come from Maori initiatives. Today over 230 Maori healthcare providers serve Maori communities, but face severe funding and payment disparities. MHFNZ noted that Maori continue to be hospitalised for mental disorders at much higher rates than non-Maori.

50. IPA noted that children and those disabled through an accident receive excellent support through the Accident Compensation Act 1974. All other people disabled from birth or with a medical condition do receive benefits but differences in the level of support available give cause for concern.

52. The education system generally performs well, as noted by NZHRC. However, inequalities in access, participation and achievement indicate that the right to education is not fully realised for all students - particularly among Maori and Pacific students, children with disabilities and students from poor families. In addition, according to NZEL, the increasing pressure for Government support by private education providers, in early childhood, the compulsory sector and tertiary education threatens to undermine a universal state education system based on inclusive human rights values.

53. JS1 noted that the Immigration Bill 2007 proposes to exempt providers of compulsory education from liability should they provide educational services to children unlawfully in New Zealand.

54. For decades Maori were taught in English to encourage their assimilation, and Maori language education has been slow to recover, as noted by CS. Maori language schools have increased participation rates, but alone cannot counterbalance the other societal problems that cause students to drop out of school. As of 2006, only 39 percent of Maori students remained in school to age 17 as compared to 61 percent of students of European extraction. Participation in higher education also remains lower for Maori than the average population.

57. SCCI noted that there is no proactive effort on part of the government body for the welfare of children from immigrant families to initiate a foster parent project within the immigrant communities so that children might continue to receive an upbringing that is consistent with their religion and culture.

66. An Immigration Bill developed in 2007, is likely to become law, as indicated by NZHRC. Despite a comprehensive consultation process, the Bill and accompanying regulations have some serious deficiencies, including the special advocate mechanism that applies to people deemed to be a security risk, the lack of an explicit presumption in the Bill against detaining children and young people, the reluctance to consider granting residency to people with disabilities or their families if they are considered likely to be a burden on the health system, and a proscription against NZHRC becoming involved in immigration matters. AIANZ added that the Bill does not strike an appropriate balance between the obligation to protect New Zealanders from the risk of harm, and the obligation to ensure that asylum seekers and others protected under international law are accorded a fair hearing and are not arbitrarily detained or returned to face persecution, torture or death. AIANZ further noted that the Bill has provision to extend detention without a warrant for up to 96 hours. Of concern also are provisions prohibiting the Courts taking into consideration the length of detention of an individual held under any provision in the Bill when determining whether or not they should be released and ruling out bail for any offence under the Bill.

67. CANZ expressed concern at the removal of citizenship rights for New Zealand born children of non-residents in the 2004 Identity Act, explaining that some children may end up stateless, as there was no obligation on the country of the parents’ origin to grant
citizenship, or certainty that parents would follow the necessary processes to register the birth of a child.

71. NZHRC noted that a wide range of human rights related initiatives and achievements were identified, including inter-al policies designed to reduce poverty, improved access to primary health care, improvements in key social and economic indicators for Maori and Pacific peoples, introduction of a revised national curriculum for primary and secondary schools and introduction of 20 free hours of early childhood education for three and four year olds, positive developments in the promotion and use of the Maori language, initiatives to foster Pacific languages, settlement support initiatives for new migrants, and New Zealand’s International Aid and Development Agency’s integration of human rights into all development assistance policies, strategies, programming and organisational practices.

Final Outcome:

14. Despite recent socio-economic improvements, disparities still persist for Māori in education, health, employment, crime statistics and income. The Government is seeking to remedy these inequalities through initiatives such as the 2009 Māori economic summit, Māori health action plans and the recently launched Māori education curriculum guidelines. The Māori language is an official language of New Zealand along with English and New Zealand Sign Language.

16. New Zealand referred to its hard work to look after its most vulnerable citizens, especially those who cannot find work, are ill or are not able to work. New Zealand also referred to assistance delivered to families with children through the tax system.

20. While highlighting the importance of children for the country, the delegation mentioned the number of children lacking opportunities and the cases of child abuse and neglect. The recently enacted Sentencing (Offences against Children) Amendment Bill will make sentences more severe for those adults found guilty of committing child abuse or neglect. Officials are working to bring sentences for crimes against children into line with penalties for crimes against adults.

21. New Zealand expects all young people to be in education or training, while those over the age of 16 also have the option to work. The Government’s Youth Guarantee addresses the issue of large numbers of young New Zealanders leaving school without any qualifications.

26. Algeria, while welcoming the ratification of most international human rights instruments, noted that New Zealand’s legislation does not cover all prohibited grounds of discrimination. It recommended taking appropriate measures to bring domestic law into full compliance with the International Covenant on Civil and Political Rights. Algeria noted references in the national report to incidents of religious intolerance and to the fact that a significant number of complaints involve racial discrimination. It recommended that New Zealand take further steps to eradicate all remaining expressions of racism, racial discrimination, xenophobia and related intolerance, and encouraged it to endorse the final outcome document of the Durban Review Conference in view of its unanimous adoption. Algeria noted the strategy on new migrants aiming at facilitating their integration in society and recommended strengthening this strategy by considering the possibility of ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. Algeria noted with satisfaction efforts made to protect the Māori population, achieve gender equality and protect children.

30. Argentina noted progress made with respect to the Māori community. It noted that New Zealand has not supported the Declaration on the Rights of Indigenous Peoples. Despite social programmes, there are still disparities between Māori and non-Māori. Argentina enquired about policies being implemented or being planned by New Zealand to reduce them, with a particular emphasis on the situation of children. It recommended that New Zealand consider ratifying ILO Convention No. 169 and applying international standards with respect to the rights of indigenous peoples. While noting the increase in the proportion of women in Parliament, Argentina recommended that New Zealand implement active policies to speed up and increase women’s representation in particular in local governments, in the judiciary and in the health sector. Argentina invited New Zealand to consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and accepting the competence of the corresponding Committee. Argentina recommended that New Zealand consider the possibility of signing and ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

34. Ukraine welcomed New Zealand’s standing invitation to the special procedures and noted that a number of national institutions are operating in the field of human rights. It asked whether the Government intend to withdraw its reservations to the Convention on the Rights of the Child. While welcoming efforts made to promote women’s rights, Ukraine highlighted the concerns expressed by the Committee on the Elimination of Discrimination against Women in 2007 about the lack of a legal mechanism to address discrimination against women in the area of employment, particularly against Māori women. It enquired about measures undertaken by New Zealand to fulfill the recommendations of the Committee in this connection.

35. Azerbaijan commended New Zealand for its standing invitation to special procedures and its consistent financial support to OHCHR. It considered the Victims of Domestic Violence immigration policy, the Taskforce for Action on Sexual Violence and the establishment of Family Violence Courts and other related measures as efficient steps aimed at eliminating and eradicating domestic violence. Azerbaijan urged New Zealand to accelerate the ratification of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Regarding priorities to reduce violence within families and to strengthen partnership with the Māori, Azerbaijan asked about measures implemented for their achievement.

37. New Zealand thanked the delegations for their questions. It stated that it signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2000 and that one further legislative amendment is required to enable ratification. It has no plans to ratify ILO Convention No. 169 but a number of specific laws take into account customs and methods of indigenous people. Moreover a broad constitutional review to be undertaken in 2010 is likely to cover such
44. Canada encouraged New Zealand to continue efforts towards the full participation of Māori in society. In 2007, the Committee on the Elimination of Discrimination against Women highlighted the gap in health and educational indicators which persists among certain minority groups. Canada recommended that New Zealand establish targets for improving representation of women in senior management in the public service and set measurable targets toward realizing gender pay equality. Canada noted that Māori are significantly overrepresented as victims and perpetrators of domestic violence and asked about initiatives to address this situation. Noting the high rate of convictions and incarceration of indigenous people, Canada recommended that New Zealand commit itself to combating institutional bias that can result in the overrepresentation of specific groups in the criminal justice system. Canada enquired about plans and timelines set for the implementation of recommendations made by the New Zealand Human Rights Commission, regarding the adoption of a plan to combat poverty and the full realization of the right to education for all.

46. Austria, while welcoming the substantial progress made regarding the situation of Māori, referred to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who had highlighted remaining disparities between Māori and non-Māori. Austria recommended that New Zealand support the Declaration on the Rights of Indigenous Peoples. Referring to the concern expressed by the Committee on the Elimination of Discrimination against Women about the continued prevalence of violence against women, in particular Māori, Pacific and minority women, Austria asked about measures planned to raise the very low conviction rate in this regard. Regarding concerns expressed by the Committee on the Elimination of Discrimination against Women that no cases of trafficking in women had been prosecuted and about the exploitation of migrant women and girls in prostitution, Austria asked how the plan of action will raise public awareness and sensitize police forces to these problems.

50. Australia applauded New Zealand’s ratification of Convention on the Rights of Persons with Disabilities and warmly welcomed its consideration of supporting the Declaration on the Rights of Indigenous Peoples. It encouraged New Zealand on its policies to reduce poverty, improve access to primary health care, and economic and social improvements for Māori and Pacific peoples. Australia requested further information on the efforts to reduce domestic violence rates and improve child health-care outcomes.

52. New Zealand indicated that it was actively working to remove barriers to accessing education and to provide wider choices for parents and students, including investments in special education, expanding popular schools and making independent schools more affordable.

54. Since 2006, the Crimes Act 1961 includes a provision that makes it an offence to use people under the age of 18 years for sexual exploitation or any person in forced labour. It is also possible to prosecute any New Zealand citizen or permanent resident who arranges the provision of, receives earnings from, or pays for commercial sexual services by a person under the age of 18 years in another country. New Zealand’s laws dealing with extradition and mutual legal assistance support this focus to reduce illegal sexual exploitation of persons under 18 years of age in any country.

57. New Zealand made reference to reservations it would like to withdraw, such as that on article 37(c) of the Convention on the Rights of the Child. With respect to prisons, New Zealand already complies with article 37(c) but further work is required regarding other custodial facilities to ensure full compliance. The delegation also mentioned that New Zealand has made progress in respect of infant children of prisoners through the enactment of the Corrections (Mothers with Babies) Amendment Act. This allows a child up to the age of two years to remain with its mother, provided it is in the best interests of the child.

58. Nigeria commended efforts made in improving the rights of persons with disabilities and the ban on the use of corrective force on children. However, it noted the concerns expressed by the Committee on the Rights of the Child that children with disabilities are not fully integrated into all aspects of society and that services, particularly in the education sector, are often difficult to access for families with disabilities. It further highlighted the appreciation of CRC regarding New Zealand’s concern about the prevalence of child abuse and its regret that services aimed at preventing abuse and providing assistance do not have sufficient resources and are insufficiently coordinated. Nigeria recommended that New Zealand commit more resources to the provision of services for children with disabilities and effectively coordinate its efforts at preventing child abuse as well as providing the needed assistance in that area.

63. Malaysia referred to the observations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people regarding disparities between indigenous and other groups. It noted the continued prevalence of violence against women, particularly of Māori and minority women, and asked about measures envisaged to address the problem and to implement the recommendations of the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination on this matter. Malaysia recommended that New Zealand (a) accept the recommendation of the Committee on the Elimination of Racial Discrimination to study ways and means of assessing the extent to which complaints for racially motivated crimes are addressed in an appropriate manner within the criminal justice system; and (b) record and document cases of trafficking in women and children as well as exploitation of migrant women and girls in prostitution and share the information with other countries in the region to facilitate greater cooperation in combating this problem.

69. The Czech Republic noted that the Bill of Rights Act does not enjoy protected status. It recommended (a) that New Zealand ensure that the Bill of Rights Act appropriately reflects all New Zealand’s international human rights obligations and that all subsequent legal provisions, including immigration laws, are in accordance with it, and cannot limit its scope; and (b) that the age of criminal responsibility be raised so that it complies with relevant international standards, that separate juvenile detention facilities be ensured for all juvenile offenders, and that further measures be taken to ensure more effective protection of children against abuse or neglect. The Czech Republic asked how the human rights perspective is introduced into the national education curriculums and suggested that New Zealand could share its good practices and challenges in this area.

72. New Zealand is committed to implementing the Convention on the Rights of Persons with Disabilities and the New Zealand
Disability Strategy. A Ministerial Committee on Disability Issues has been established and the Government will consider resourcing issues regarding provisions of services to children with disabilities.

74. Regarding violence against children and family violence, New Zealand has introduced multiple initiatives with increased dedicated funding. Recently, sentencing laws on violence against children were amended. The New Zealand Law Commission is currently reviewing Part 8 of the Crimes Act 1961 with special regard to offences against children. This review might result in new legislation being introduced in Parliament.

75. New Zealand removed the legal protection that allowed parents to use reasonable force to discipline children. A referendum will take place on this matter in July and August 2009 as a legal requirement following the submission of a number of petitions.

76. The current minimum age for criminal responsibility is 10 years. However, with the exception of the offences of murder and manslaughter, children under the age of 14 cannot be prosecuted for offending. Offending by children aged 10 to 13 years (other than murder and manslaughter) may in certain circumstances be dealt with in the Family Court as a care and protection matter. Offending by young people aged 14 to 16 years is addressed by a specialist youth court. Work is ongoing to improve effective responses to children’s offending and, where possible, to use alternatives to prosecution.

80. The delegation’s concluding comments stated that complacency cannot be tolerated in the field of human rights. More needs to be done to reduce the overrepresentation of Māori in negative statistics and the abuse and neglect of children. The Government is committed to breaking these trends despite the challenging economic times. The delegation recalled that New Zealand was open to constructive dialogue through treaty body monitoring and had issued a standing invitation to all special procedures. The delegation concluded that the international community has set the benchmark for human rights standards and implementation matters.

**Conclusion and Recommendations**

81. The following recommendations will be examined by New Zealand, which will provide responses in due time. The responses to these recommendations will be included in the outcome report adopted by the Human Rights Council at its twelfth session:

3. Consider the possibility of signing and ratifying (Argentina) / Accelerate the ratification of (Azerbaijan) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;

46. Commit more resources to the provision of services for children with disabilities (Nigeria);

48. Raise the age of criminal responsibility so that it complies with relevant international standards (Czech Republic);

49. Ensure separate juvenile detention facilities for all juvenile offenders (Czech Republic);

50. Take further measures to ensure more effective protection of children against abuse or neglect (Czech Republic);

51. Effectively coordinate its efforts to prevent child abuse and provide the needed assistance in that area (Nigeria);

56. Record and document cases of trafficking in women and children as well as exploitation of migrant women and girls in prostitution, and share the information with other countries in the region to facilitate greater cooperation in combating this problem (Malaysia);