



**Convention on the  
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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 44 OF THE CONVENTION**

**Second periodic reports of States parties due in 2000**

**NEW ZEALAND\* \*\***

[19 February 2001]

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\* For the initial report submitted by the Government of New Zealand, see CRC/C/28/Add.3, for its consideration by the Committee, see documents CRC/C/SR.363-365 and CRC/C/15/Add.71.

\*\* This document has been submitted as received without formal editing.

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## Introduction

1. This is New Zealand's second periodic report to the Committee on the Rights of the Child (the Committee) covering June 1995 to September 2000.
2. This report includes New Zealand's relevant developments in law, policy and practice since its *Initial Report* as well as plans to improve children's rights. Details include legislative, judicial, administrative and other adopted measures that affect the provisions of the United Nations Convention on the Rights of the Child (UNCROC/Convention).

## Development of this Report

3. This report is prepared in accordance with:
  - the general guidelines adopted by the Committee on 15 October 1991 (contained in document CRC/C/5) and
  - the general guidelines regarding form and content of periodic reports adopted at the Committee's 13th session, 11 October 1996.
4. This report should be read in conjunction with the *Core Document on New Zealand* (Core Document) and New Zealand's *Initial Report* on the Convention.
5. This report has eight parts based on the clusters of articles set out in the Committee's guidelines.
6. Background information and statistics about New Zealand children are contained in Appendix 1. Information about how New Zealand considered the Committee's concluding observations from the *Initial Report* is in paragraphs 18 to 95.
7. Drafts of this report were circulated to non-governmental organisations and the general public for comment. Views were sought about what is happening for children in New Zealand.
8. As part of the consultation process, the Ministry of Youth Affairs developed an information kit that included:
  - a summary of the Convention's articles
  - an introduction and some basic information about the Convention
  - the reporting process
  - how people should contribute.

9. Each kit included a summary of each part of the draft report with key issues highlighted (attached as Annex 1). Some “starter” questions were included to spark people’s thoughts and help identify the relevant issues. These questions were based on *UNICEF’s Implementation Handbook for the Convention on the Rights of the Child*.

10. Over 50 submissions were received from individuals and non-government organisations (NGO). A copy of the submissions was given to Action for Children in Aotearoa which is developing an NGO report to the Committee.

11. Other government agencies were given a summary of the submissions to fill the “information gaps” and respond to concerns that were raised.

12. This report combines all this information and reflects the comments, questions and observations received from the consultation process. Youth Affairs summarised the public submissions, reporting in good faith both criticisms and positive comments in keeping with an open reporting process. The *Summary of Public Submissions* (Annex 76) is government’s interpretation of public comment. NGOs will comment directly to the Committee at the appropriate time.

13. It was not possible to respond to all concerns raised during public consultation. However, this report provides the Committee and New Zealand people with an understanding of the range and nature of issues affecting New Zealand children so New Zealand can work together to address them.

### **The Treaty of Waitangi**

14. The Treaty of Waitangi is fundamental to achieving and sustaining the rights of Maori children and young people in New Zealand. (Information about the Treaty and its importance to New Zealand’s social and political system is contained in the Core Document.)

15. During consultation, concerns were raised that international instruments (which are typically derived from a western paradigm of human rights) place greater emphasis on the rights of the individual rather than the collective group.

16. The traditional Maori view of human rights is rooted within the collective obligations and responsibilities of the whanau, hapu and iwi (please see paragraph 356) for a definition and explanation). There are concerns that an inherent tension is created for the collective interests of Maori, whanau, hapu and iwi when agencies attempt to develop child policies using these international instruments.

17. Although both frameworks are recognised and offer value to policy and services development, it is not clear what the exact nature of this relationship is and what it means in practice for Maori (and other ethnic) children. It is clear that New Zealand needs to further debate the relationship between the Treaty of Waitangi, indigenous and cultural rights, and human rights’ instruments (including UNCROC).

### **The Committee's Suggestions and Recommendations about New Zealand's Initial Report**

18. The Committee's concluding observations about New Zealand's *Initial Report* includes a series of suggestions and recommendations to further implement the Convention. The Committee also noted a number of positive factors, including:

- increasing emphasis on monitoring and evaluating the effect of proposals on children
- the wide range of support services for children
- the introduction of age discrimination measures
- the Youth Parliament.

19. Following is an overview of how New Zealand has considered each of the Committee's concerns and recommendations.

20. There has been criticism within New Zealand about the length of time it has taken us to respond to the Committee's concluding observations that were issued in 1997. New Zealand acknowledges that progress has been slow, however, the reporting process has helped to increase the priority given to this work. In April 2000 New Zealand decided to deal with the Committee's concerns by developing a consolidated work programme (UNCROC work programme.)

21. The work programme divides the Committee's suggestions and recommendations into two categories:

- issues that require new work to address the Committee's concerns
- areas that relate to the Committee's concerns and where work is already underway.

22. Rather than establish separate policy projects, responses to the Committee's concerns are being developed as part of existing work wherever possible. In September 2001 Government will reassess progress to ensure that existing work is in fact addressing the Committee's concerns. Further information will be provided when New Zealand's report is presented to the Committee.

### **The reservations and extension to Tokelau**

#### **Committee's concerns**

**“The Committee is concerned about the broad nature of the reservations made to the Convention by the State party, which raise questions as to their compatibility with the object and purpose of the Convention. Moreover, the Committee regrets**

**that the State party has not extended the Convention with respect to the territory of Tokelau, which is not at present a sovereign State and remains a non-self-governing territory in important respects.”**

### **Committee’s recommendation**

**“In the spirit of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 which urged States to withdraw reservations to the Convention on the Rights of the Child, the Committee wishes to encourage the State party to take steps to withdraw its reservations to the Convention. Furthermore, the Committee encourages New Zealand to extend the application of the Convention with respect to the territory of Tokelau.”**

### **The Reservations**

23. New Zealand’s commitment to ensuring national laws and policies are consistent with the Convention has continued during the reporting period. However, New Zealand has the following three formal reservations to the Convention.

#### **(i) Children unlawfully in New Zealand**

This reservation is to article 22 and concerns the non-provision of benefits to children unlawfully in New Zealand:

Nothing in this Convention shall affect the right of the Government of New Zealand to continue to distinguish as it considers appropriate in its law and practice between persons according to the nature of their authority to be in New Zealand including but not limited to their entitlement to benefits and other protection described in the Convention, and the Government of New Zealand reserves the right to interpret and apply the Convention accordingly.

#### **(ii) Protection of children in employment**

This reservation is to article 32(1) and concerns the adequacy of measures to protect children in employment:

The Government of New Zealand considers that the rights of the child provided for in article 32(1) are adequately protected by its existing law. It therefore reserves the right not to legislate further or take additional measures as may be envisaged in article 32(2).

**(iii) Age-mixing in prisons**

This reservation is about the mixing of juvenile and adult prisoners:

The Government of New Zealand reserves the right not to apply article 37(c) in circumstances where the shortage of suitable facilities makes the mixing of juveniles and adults unavoidable; and further reserves the right not to apply article 37(c) where the interests of other juveniles in an establishment require the removal of a particular juvenile offender or where mixing is considered to be of benefit to the persons concerned.

24. The Vienna Convention on the Law of Treaties prohibits reservations that are “incompatible with the object and purposes of the treaty”. New Zealand does not consider that a reservation is, in itself, incompatible with the purpose and object of the Convention, and New Zealand’s practice in entering into reservations is to ensure full compliance when ratifying international instruments. However, New Zealand notes the Committee’s concerns and the Government has asked for work to consider the removal of the reservations to be afforded high priority on the UNCROC work programme.

**(i) Children unlawfully in New Zealand**

As indicated in the *Initial Report* (paragraph 336), the reservation under article 22, reserves the New Zealand Government’s right to distinguish between persons according to the nature of their authority to be in New Zealand.

New Zealand provides a wide range of services and entitlements for people (including children) who are lawfully in New Zealand, whether as citizens, residents, refugees, or asylum seekers. However, under New Zealand law persons who are unlawfully in New Zealand are not entitled to receive state-funded income support or education. A practical concern is that children unlawfully in New Zealand may not be receiving the health, education and welfare services they need because of their immigration status.

Owing to data collection problems and problems associated with positive identification, it is extremely difficult to know the exact number of children unlawfully in New Zealand. There are approximately 18,900 - 22,400 overstayers currently in New Zealand (as at July 2000), with 5,700 - 7,700 who have been in New Zealand continuously for five years or more; no breakdown of this number by age is available. In March 2000 there were 1,807 removal orders issued for people to be removed from New Zealand. Of these, 172 were for children under the age of 16 and 82 were for people aged 16 to 20 years.

By March 2001 the Government will see if the reservation can be removed once it identifies possible difficulties and considers options for addressing those difficulties.



**(ii) The protection of children under labour law**

New Zealand has reserved the right not to legislate further or take additional measures because existing law adequately protects the rights of the child provided for in article 32(1).

The Committee raised related concerns about the fact that New Zealand does not have:

- a comprehensive policy to deal with child labour
- a basic minimum age of admission to employment, or a range of minimum ages for different types of work and working conditions.

(Please see paragraphs 48, 90-91 and 918-944 for more information about children and work.)

The New Zealand Government does not consider all forms of employment for children are harmful. New Zealand society has a long established tradition of children being employed in part-time and holiday work (such as picking fruit and delivering newspapers). The employment of young people encourages them to develop skills and foster an attitude of independence for their own and the society's benefit. A number of current initiatives and existing protections cover children and young people who work. (These are described in paragraphs 918-944.)

However, in recognition of children's vulnerability and special needs in the workplace and in response to the Committee's concerns, by September 2001 the New Zealand Government will clarify the minimum age requirements under UNCROC and assess what steps would need to be taken to remove this reservation.

**(iii) Age-mixing in prisons**

The third reservation is about the mixing of juvenile and adult prisoners.

Comments on this reservation were made in paragraph 360 of New Zealand's *Initial Report*.

This reservation was entered into because New Zealand wanted flexibility to accommodate high inmate populations and separate troublesome juvenile offenders from other juveniles. Developments during the reporting period may help to address the facilities shortage. Youth Units are being built in male prisons to help avoid mixing young men with older inmates. The Department of Corrections (Corrections) is undertaking research and further policy work to determine if changes are needed to manage young female inmates. (Please see paragraphs 910-911 for further information on these developments.)

Department of Child, Youth and Family Services (Child, Youth and Family) policy initiatives will increase the sentencing options available to the Courts and may have an indirect effect in reducing the number of young people who receive prison sentences. (Please see paragraphs 877-878, 893-896.)

In light of these developments Government is clarifying, by September 2001, the nature of any remaining difficulties for New Zealand in removing this reservation in order to assess whether there are steps that might be taken toward such removal.

### **Extension of the Convention to Tokelau**

25. The Committee encouraged New Zealand to extend the application of the Convention with respect to the territory of Tokelau because Tokelau is not currently a sovereign State and remains a non-self-governing territory in important respects.
26. New Zealand is yet to extend ratification of the Convention to Tokelau, which remains New Zealand's last non-self-governing territory. In 1993 (the same year New Zealand ratified the Convention) both New Zealand and Tokelau began to work on constitutional changes to allow greater Tokelau self-governance and work towards eventual self-determination. In 1996 the General Fono (assembly) of Tokelau gained the power to make rules which will have the force of law within the Tokelau jurisdiction.
27. The issue of the Convention's extension to Tokelau has been discussed in Tokelau and between New Zealand and Tokelau during the reporting period. In 1996 Tokelau Government representatives worked with the regional UNICEF office to produce a Tokelauan translation of the Convention. This has been widely distributed to increase awareness of the issue in Tokelau.
28. Tokelau's primary focus however, continues to be on the larger issue of its constitutional development. Its goal is to be as self-reliant as possible and the economic dimensions are as important as the political. This is a daunting agenda for a community of 1,500 people, located on three widely-dispersed atolls in one of the world's remoter locations.
29. Tokelau understands the rights set out in the Convention and the obligations which would need to be fulfilled if New Zealand extended ratification to Tokelau. For the present, Tokelau prefers to defer any decision on this matter. This reflects its over-riding contemporary focus on the goal of nation building. Equally, and more practically, following an extension of New Zealand's ratification of the Convention, Tokelau, would want to be certain of its ability to fulfil the several obligations that would follow from that extension.
30. The New Zealand Government remains fully prepared to provide Tokelau with whatever assistance or advice that may be required to facilitate the extension of the Convention to Tokelau, including by undertaking the necessary international ratification procedures.
31. However, for now the New Zealand Government has agreed to oblige Tokelau's position of deferring any decision on ratification and no further action will be taken unless requested by Tokelau.

## **Comprehensive child policy statement to guide support services**

### **Committee's concerns**

**“The Committee regrets that the State party’s approach to the rights of the child appears to be somewhat fragmented, as there is no global policy or plan of action which incorporates the principles and provisions of the Convention, encompassing all areas covered by the Convention.”**

**“While viewing with interest the extensive delegation to non-government organisations of delivery of certain support services to children and their families, the Committee considers that the ultimate responsibility for the quality of such Government-supported services rests with the State party - be it at the central or local level - and that delegated programmes need careful monitoring and evaluation. In this regard, the Committee also notes that the public funding of such non-governmental organisations may raise questions as to their independence.”**

**“The Committee notes with concern the insufficient measures adopted to ensure effective co-ordination between different governmental departments competent in areas covered by the Convention as well as between the central and local authorities. The Committee is concerned that this may not only result in a lack of a central focal point for co-ordinating governmental action, but also lead to inconsistency in government action.”**

### **Committee's recommendation**

**“The Committee suggests that the State party prepare and adopt a comprehensive policy statement with respect to the rights of the child, incorporating the principles and provisions of the Convention, that could provide guidance to all those involved in support services delivered or funded by Government.”**

32. Submissions strongly endorsed this Committee recommendation and referenced the Waitakere and Christchurch City Councils which have implemented First Call for Children to ensure any policies, decisions etc. are monitored for their effect on children and young people. This was put forward as a possible model for Government.

33. Comments were also made about the need for New Zealand to have a comprehensive policy statement for children, rather than piecemeal policies. Where there are broad policies (such as the Health Strategy and legislation on sexual health and reproductive health) people felt that they needed to include a focus on children and young people.

34. During the reporting period there has not been a single comprehensive policy statement that incorporates the principles of the Convention. However, New Zealand supports the use of policy statements to guide the design and implementation of support services. To help guide

services provided to children, a number of policy statements were issued across a range of sectors including health, social welfare and education covering matters such as child health, specialist mental health services for children and young people, suspension from school. (Details of these are outlined elsewhere in this report.)

35. The Government is developing a Children's Policy and Research Agenda (the Agenda) to provide a framework to inform policy development and research relating to children. The Agenda will be based on the Convention and cover the 0 to 18 age group.

36. The Government is also progressing a Youth Development Strategy Aotearoa (the Strategy) over the next two years, which covers the 12 to 25 age group. The Strategy will take a developmental and preventative approach to the issues facing young people and set out a range of integrated responses. It will be consistent with the Convention.

37. There are strong links between the Agenda and the Strategy and steps are being taken to ensure these two initiatives complement each other, particularly for the 12 to 18 age group where there is overlap. Children and young people will be involved in the development of both initiatives. (Further information on both initiatives is contained in paragraphs 143-150.)

38. The Committee's concerns about the need for a global policy or plan of action will be taken into account in developing the Agenda and the Strategy. The Committee will be updated when New Zealand presents this report.

### **Bring existing legislation into line with the Convention**

#### **Committee's concerns**

**“The Committee notes with concern the lack of conformity of relevant domestic laws with the definition of the child under the Convention, especially with regard to the minimum age for charging a child with serious offences and the minimum age of access to employment. The Committee further notes with concern the appearance of a wide range of age cut-offs - which do not appear to be necessarily consistent - under legislation administered by various government entities for eligibility for different types of government support.”**

#### **Committee's recommendation**

**“The Committee recommends that the Government pursue the process of bringing existing legislation into line with the principles and provisions of the Convention. In this regard, the Committee suggests that the minimum age for being charged with very serious criminal offences and for access to employment be reviewed as a matter of priority.”**

(Please see paragraphs 105-112 for information about the processes for ensuring legislation complies with UNCROC.)

**(i) Minimum age for criminal prosecution**

39. The minimum age of criminal responsibility in New Zealand is 10 years old. This only applies to offences of murder and manslaughter. Children cannot be prosecuted for other offences unless they are at least 14 years at the time of the offence.

40. During the reporting period New Zealanders have debated whether the age limits for criminal prosecution should be changed. The weight of public opinion seems to favour lowering the age limit of 14 years, which applies to the majority of offences. Policy work on ages in 1998/99 recommended no change. However, the issue being considered was lowering the age of prosecution from 14 years, not raising the minimum age from 10.

41. New Zealand notes the Committee's concern about the presumption that someone who is 10 years old may have the capacity to offend with criminal intent and the appropriateness of using the adult justice system to deal with serious offences committed by children, including testing capacity. It is also noted that although the Convention does not prescribe a particular age for criminal responsibility the Committee has indicated that even 14 years is too young. It also has concerns that the process for proving capacity may breach children's rights.

42. In light of the Committee's concerns, the Government has considered whether work should be done on the minimum age for criminal prosecution. New Zealand has had a few cases where a 10 to 13 year old has killed somebody and there would be merit in considering the issue before New Zealand faces this situation again. There is a reasonably, widely-held public belief that young people are not held sufficiently accountable for offending. Therefore there is a risk that putting the minimum age for criminal prosecution on the agenda may lead to additional pressure to lower the 14 year age, not raise the minimum age of 10 years.

43. The Government has directed the Ministries of Justice and Social Policy to identify the reasons for and against raising the minimum age for criminal prosecution and report jointly to their Ministers in September 2001.

**(ii) Upper age of the Children, Young Persons and Their Families Act**

44. The upper age of the Children, Young Persons and Their Families Act 1989 (currently 17 years of age) does not match UNCROC's upper age limit. This was identified as an issue by officials and in submissions during consultation on the draft UNCROC report. In respect of youth justice, extending the jurisdiction of the Youth Court to include 17 year olds was considered as part of a 1998/99 Review of Youth Court Jurisdiction and Sentencing. The review recommended that the Ministry of Social Policy raise the proposal again in 2002, to allow work on the effectiveness of the youth justice system to be completed so that there is more information available on the merits (or otherwise) of raising the age limit.

45. Government has agreed that a review of the upper age limit of the Children, Young Persons and Their Families Act (both Care and Protection and Youth Justice provisions) be conducted by the Ministry of Social Policy in 2002. (This timing allows work on the effectiveness of Youth Court Sentences to be completed and taken into account.)

**(iii) Conformity of age limits with definition of child**

46. The lack of consistency in age limits affecting children is a concern for children and young people and generally creates confusion. The Ministry of Youth Affairs has completed a project looking at the range of legal ages affecting young people. The project culminated in a booklet *Does Your Policy Need An Age Limit? A Guide to Youth Ages from the Ministry of Youth Affairs*. The booklet encourages policy-makers to avoid discrimination and develop a consistent approach to the treatment of young people, and respect for their active participation in society. It provides information about the Convention and guidelines for its use in determining whether an age limit is necessary and, if so, what that age limit should be. (A copy of the booklet is attached, Annex 2.) For example, the booklet was used when considering the age of adulthood in the youth minimum wage review.

47. The Government will continue to co-ordinate work to bring legislation in line with the principles and provisions of UNCROC as the opportunity arises.

**(iv) Minimum age for access to employment**

48. There are a number of age restrictions on children's work (see paragraphs 918-944). Government will be clarifying the minimum age requirements under UNCROC in order to assess, by September 2001, what steps would need to be taken to remove this reservation.

**Review of policy, practice and legislation**

**Committee's recommendation**

**“While the Committee is encouraged that a review of all government policy, administrative practice and legislation is under way to determine consistency with the Human Rights Act 1993, the Committee suggests that a separate or complementary review take place, taking into account the principles and provisions of the Convention, of all aspects of government policy, administrative practice and legislation having an impact on children.”**

49. When New Zealand presented its initial UNCROC report, the Human Rights *Consistency 2000* project<sup>1</sup> (*Consistency 2000*) was underway and the Committee noted it positively. It appears the Committee had *Consistency 2000* in mind when suggesting a similar process for assessing consistency with UNCROC of all aspects of government policy, administrative practice and legislation having an impact on children.

50. The *Consistency 2000* project has provided a useful insight into whether and, if so, how to conduct a review of policy, law and practice in light of the Convention. It is unlikely such a review will be considered at least until the Government clarifies the inconsistencies between existing legislation and the Human Rights Act.

51. Work that specifically relates to this recommendation is also likely to be covered in developing the Agenda - it will also help assess consistency with UNCROC of government policy, administrative practice and legislation having an impact on children.
52. In the meantime, the Government has continued to integrate the Convention into policy development in a number of ways. The Ministry of Youth Affairs is fostering a forum where government officials can get help in developing policy by sharing information and working through children's rights issues. It has also developed a template (Annex 3) for agencies to use to assess the Convention's applications in policy development.
53. Lack of information on, and understanding of, the Convention suggests that it is necessary to continually develop better ways to integrate the Convention and children's rights into the government policy development process.
54. These issues apply to human rights generally in New Zealand. There has been a Ministerial Re-evaluation of the Human Rights Act 1993 and the roles, interrelationships, operation and structures of human rights agencies in New Zealand. The re-evaluation team's recommendations to improve how international human rights instruments are used in New Zealand's domestic policy are currently being considered by the Government.
55. The Government has asked officials to consider the Committee's concerns as part of developing the Agenda, the Strategy and work arising from the Ministerial Re-evaluation of Human Rights and to report on its progress in September 2001.

### **Strengthen the Office for the Commissioner for Children**

#### **Committee's recommendation**

**“Furthermore, the Committee suggests that the Office of the Commissioner for Children be strengthened and that consideration be given to how the Office could have increased independence and be made accountable directly to Parliament.”**

56. New Zealand has remained committed to providing a separate office for the Commissioner for Children (see paragraph 9 of the *Initial Report*). Submissions showed strong support to strengthen the Office of the Commissioner for Children and increase its resources. The Social Services Select Committee is currently considering a Bill proposing that the Commissioner for Children be made an Officer of Parliament and that the Commissioner's powers of investigation be increased.
57. The Select Committee is required to provide a final report by 31 December 2000. An interim report has been made to inform policy work on the Commissioner for Children Bill. The key conclusion was it does “not support the intent of the bill to make the Commissioner an Officer of Parliament” but it does “support the intention of the bill to strengthen the independence and powers of the Commissioner”.

58. The Select Committee considered that making the Commissioner an Officer of Parliament could be inconsistent with the Commissioner's primary role as an advocate for children. Other options for increasing the Commissioner's independence are:

- establishing the Commissioner under a separate statute
- standardising the provisions relating to the appointment process, and the negotiation of terms and conditions of appointment, with those of similar Commissioners.

59. The Ministry of Social Policy is leading work on amending the functions and powers of the Commissioner for Children to give better effect to the Convention in New Zealand. The status and independence of the Commissioner's office is being considered as well as the merits of extending their powers and functions.

60. The Commissioner's functions could be extended to include the following rights-based functions:

- promoting awareness and understanding of children's rights and UNCROC
- providing an explicit advocacy function
- promoting the participation of children when making decisions that affect their lives
- promoting the establishment of an accessible and effective complaints mechanism by organisations dealing with children, and monitoring the nature and level of complaints.

61. It is also considering whether the Commissioner should have the power to request written information and documents, and what the Commissioner's role should be in relation to judicial proceedings.

62. This work will address the Committee's concerns. Updated information will be provided to the Committee when New Zealand presents its report.

### **Data collection, indicators, and complaints registration**

#### **Committee's concerns**

**“The Committee is concerned about the insufficiency of measures to collect disaggregated statistical data, including in relation to the registration of complaints from children, and other information on the situation of children, especially those belonging to the most vulnerable groups. The absence of qualitative and quantitative information on the status of children makes the assessment of implementation of the Convention difficult.”**



### **Committee's recommendation**

**“The Committee recommends that a review of the system of data collection be undertaken, giving priority attention to the identification of appropriate disaggregated indicators, including in the field of complaint registration, with a view to addressing all areas covered by the Convention and all groups of children, particularly the most disadvantaged.”**

63. There have been a number of data collection developments. Rather than establish a separate review, the Government has asked officials to report in September 2001 on existing initiatives that are addressing the Committee's concerns. (See paragraphs 167-189.)

64. Particularly relevant developments include childhood well-being indicators which have been developed to identify and measure the social and economic position of children in New Zealand since 1997. The Ministries of Health, Education and Social Policy have updated these measures and will continue to update information and indicators on an annual basis.

65. Statistics New Zealand is leading a data integration project that proposes implementing common data standards and integrating variables. The initial stage of this work programme is likely to review current practices and the quality of data across different agencies and ministries. A recommended work programme includes an exercise in matching datasets, implementing common definitions and output standards across social administrative datasets.

66. Other work that can contribute includes the Child Health Information Strategy that will link information about children across different providers, and the Ministry of Māori Development (Te Puni Kokiri) Monitoring and Evaluation Unit's assessment of the effectiveness of the Government responses to Māori.

### **Give priority to children in budget allocation**

#### **Committee's concern**

**“As regards the implementation of article 4 of the Convention, the Committee is concerned that the extensive economic reform process undertaken in New Zealand since the mid-1980s has affected the budgetary resources available for support services for children and their families and that all necessary measures to ensure the enjoyment by children of their economic, social and cultural rights to the maximum extent of the State's resources have not been undertaken.”**

#### **Committee's recommendation**

**“The Committee recommends that, with respect to the implementation of article 4 of the Convention, budget allocations should be made to the maximum extent of the State party's available resources and should give priority to the realisation of the economic, social and cultural rights of children, and that particular attention be paid to children belonging to the most disadvantaged groups.”**

67. In line with the inter-dependent roles of parents and the State, New Zealand has continued to allocate budgetary resources across a mix of sectors, general family-related measures and child-specific initiatives. Significant priority is given to children and their families within the budget process.

68. Budget allocations are made sector by sector because of the structure of the executive and administrative branches of government. This means that budget allocation for services to children and their families, except for specific programmes, are included in general spending. For example, in the health sector, general budget allocations for the purchase of health services include health services available to all New Zealanders (including children) and specific allocations for children, such as free visits to general practitioners for children under 6 years of age. The inter-related nature of the role of the state and parents in the well-being of children suggests that the development of a distinct budget for children is unlikely.

69. However, the Government plans to measure and assess the priority it gives to children in budget allocations by improving tracking allocations relating to children. This work is being done as part of the development of the Agenda.

### **Study the impact of economic reforms on children**

#### **Committee's recommendation**

**“The Committee also suggests that the State party undertake a study on the impact on children and their families of the economic reform process that has been ongoing for the last several years in terms of its impact on government budgetary resources available for support services, as well as on the impact of unemployment on children, young persons and their families. Conclusions from such a study could be a useful starting point for developing a comprehensive strategy for future action.”**

70. Submissions showed a concern about the increasing inequalities in society as a result of major economic changes. They said 10 years of economic and societal reform has affected children's ability to benefit from education and to participate fully in society and their community - particularly Māori. A lack of resources can prevent programmes with potential from actually working. It was suggested that New Zealand should have an official poverty line.

71. There are a number of projects across the sectors that provide information on the economic position of children - particularly work on economic and income disparities, living standards and social assistance and the effects of the economic reforms on the determinants of health. (Please see paragraphs 196-216.)

72. Rather than working on the historical impact of economic reforms on children, New Zealand prefers to use existing information to develop future strategies. The New Zealand Government has asked officials to report on progress in addressing the Committee's concerns through existing work in September 2001.

### **Study the needs of single-parent families**

#### **Committee's concern**

**“The Committee regrets the rise in the number of single-parent families and is concerned about the lack of a concerted strategy by the State party to address the needs of children affected by this trend.”**

#### **Committee's recommendation**

**“The Committee suggests that a study on the projected needs of single-parent families be made in light of this increasing trend, and that measures be taken to supplement those already in place to avoid potential negative consequences for children in these families and their parents in the future.”**

73. Submissions showed concern about the plight of single-parent families and cited research that low employment rates among single-parents and a relative lack of assistance places the single-parent family at the greatest risk of poverty. (Stephens, Frater & Waldegrave, ‘Below the Line: An Analysis of Income Poverty in New Zealand, (1984-1998), see Annex 4).

74. The Ministry of Social Policy commissioned a literature review in March 2000 investigating the effects of single parenthood on children. A draft report is now being externally reviewed. The Ministry is also leading an evaluation and monitoring strategy for the reforms to Domestic Purposes Benefit (DPB) - the DPB is the key form of income support for single-parent families. The evaluation and monitoring strategy will:

- assess the impact of the DPB reforms for individual DPB recipients, and for children within sole parent households
- monitor changes in indicators relevant to the DPB reform objectives
- assess the DPB reform implementation.

75. Government has asked officials to report in September 2001 on progress in addressing the needs of single-parent families.

### **Youth suicide**

#### **Committee's concern**

**“The Committee expresses its serious concern at the high rate of youth suicide in New Zealand.”**

### **Committee's recommendation**

**“The Committee suggests that the State party continue to give priority to studying the possible causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support and intervention programmes, be it in the field of mental health, education, employment or another field, which could reduce this tragic phenomenon. In this regard, the State party may want to call on Governments and experts in other countries which also may have experience in dealing with this problem.”**

76. Preventing youth suicide is a high priority for New Zealand. In March 1998, the New Zealand Youth Suicide Prevention Strategy was released. Based on New Zealand and international research and best practice, the strategy is aimed at government and community agencies and provides a framework for understanding what suicide prevention is and steps that must be taken to reduce suicide.

77. The strategy has two components:

- *In Our Hands* - a strategy for the general population (Annex 5)
- *Kia Piki Te Ora o te Taitamariki* - specifically supports Maori efforts to reduce suicide among rangatahi Maori (Maori youth) (Annex 5)  
(Please see paragraphs 284-295.)

78. Government will monitor progress in addressing the Committee's concerns through the *New Zealand Youth Suicide Prevention Strategy*.

### **Review of corporal punishment legislation**

#### **Committee's concerns**

**“The Committee expresses its concern at the authorisation provided by section 59 of the Crimes Act to use physical force against children as a punishment within the family, provided that the force is reasonable in the circumstances.”**

#### **Committee's recommendation**

**“The Committee recommends that the State party review legislation with regard to corporal punishment of children within the family in order to effectively ban all forms of physical or mental violence, injury or abuse.”**

79. Section 59 of the Crimes Act 1961 has not been reviewed during the reporting period and it continues to provide a defence for parents to use force that is reasonable in the circumstances to discipline their children. New Zealand believes it provides sufficient protection through:

- the fact that section 59 does not sanction any form of violence or abuse against children

- the provisions of the Children, Young Persons and Their Families Act 1989 provides protection when abuse is substantiated.  
(Please see paragraphs 187 to 189 of New Zealand's *Initial Report*.)

80. Submissions criticised Government for not reviewing section 59 of the Crimes Act. One argument was that physical abuse of children will remain unreported in the community because hitting is seen as "standard parental discipline". Others thought that removing it would lead to loss of parental control. The opponents of corporal punishment recognised parents do need to be "effectively" educated and supported if the law is changed. Reference was made to educational material on alternatives to corporal punishment produced by non-government organisations, especially EPOCH and the Peace Foundation.

81. In October 2000 the Government directed officials to report as soon as possible on how other comparable countries (particularly in the European Union) have addressed the issue of compliance with UNCROC, including the education campaigns that preceded legislative change.

### **Recovery of child victims of abuse**

#### **Committee's concerns**

**"Moreover, the Committee noted the insufficient measures taken to address the issue of ill-treatment and abuse, including sexual abuse, within the family, as well as the issues of physical and psychological recovery and social reintegration of children victims of such ill-treatment or abuse."**

#### **Committee's recommendation**

**"It further recommends that appropriate mechanisms be established to ensure the physical and psychological recovery and social reintegration of children victims of such ill-treatment and abuse, in light of article 39 of the Convention."**

82. Several sectors and agencies share responsibility for child abuse victims' recovery and ongoing work continues within each sector. The New Zealand Government has funded services that meet the needs of child abuse victims. For example:

- the Police, Child, Youth and Family and Women's Refuge are working on a project for child victims of family violence including multi-agency centres for child abuse victims (being developed by Child, Youth and Family)
- the Ministry of Justice is developing a child witness programme to provide specialist support and assistance to child victims and witnesses and their caregivers who are required to go to court (to prevent secondary victimisation through the court system)
- the Department for Courts (Courts) has undertaken initiatives to enhance representation of children's views in the court process (such as the review of the role of Counsel for the Child)

- a protocol has been signed between Courts and Child, Youth and Family, which ensures clear communication between agencies on cases that come before the court where care and protection of children may be an issue. (Please see paragraphs 537-538.)
- the Domestic Violence Act 1995 provides funding for approved programmes that protect people and their children. However, although participation figures are not available, uptake of the children's programmes under the Domestic Violence Act has been low.

83. Collaboration between the sectors is needed to ensure the physical and psychological recovery and social reintegration of child victims of ill treatment and abuse. For example, a medium term strategy is being developed to address the severe mental health and/or severe behavioural difficulties of children and young people. Protocols have been developed between sectors to ensure that appropriate mechanisms provide consistent service delivery (Child, Youth and Family and ACC).

84. A Chief Executive Officers interagency group has been established to ensure recommendations in the Commissioner for Children's report on the death of James Whakaruru are co-ordinated and actioned (see paragraphs 532-533).

85. In light of existing work, no new initiatives are proposed. Government has asked officials to report on progress in addressing the Committee's concerns through work to improve rehabilitation services to child abuse victims in September 2001.

### **Reducing inequalities**

#### **Committee's concerns**

**“The Committee notes with concern that the Maori population lags significantly behind the non-Maori population in most statistics of well-being, thus reflecting that insufficient measures have been undertaken to protect and promote the enjoyment of the rights of this population group, and of Maori children in particular.”**

#### **Committee's recommendation**

**“While noting the efforts made by the Government in the areas of health, education and welfare with regard to the Maori population, the Committee encourages the authorities to pursue and strengthen their programmes and activities to fill the remaining gap between the Maori and non-Maori children.”**

86. Reducing inequalities is a key priority for the Government. Agencies are developing innovative ways to address disparities and to examine existing programmes and whether they are effective, in particular for Maori and Pacific peoples.

87. A report to the Minister of Maori Affairs in May 2000 looked at the structure of Maori population and projected future changes. The report suggests that to reduce disparities in the future, New Zealand needs to focus on the current Maori population aged 17 years and younger. (See Annex 6.)

88. The report does not, however, recommend pouring all the resources available into assisting those who are under 17 years of age, as the causes of disparities are cross-sectoral and complex. For example, the lack of Maori participation in early childhood education, in part, results from the barriers caused by the low income of Maori parents. A wider focus for intervention is needed across the population. When responding to disparities, the Government will:

- involve and motivate the Maori community
- place greater emphasis on agencies to co-ordinate policies with a range of sectors and departments.

89. The Government has asked for a progress report in September 2001 on addressing the Committee's concerns (see paragraphs 987-992).

### **Review of child labour law**

#### **Committee's concern**

**“The Committee notes with regret that the State party does not have a comprehensive policy to deal with the issue of child labour, a basic minimum age for admission to employment, or a range of minimum ages for different types of work and working conditions.”**

#### **Committee's recommendation**

**“The Committee recommends that the policy and law in relation to child labour be reviewed and that that State party consider ratifying the ILO Convention No. 138 on the minimum age for admission to employment.”**

(Please see paragraphs 24(ii), 48 of this report.)

90. Information about policies regarding child labour is contained in paragraphs 918-944 of this report. Ratification of International Labour Organisation (ILO) Convention 138 has not been considered during the reporting period. However, as noted above, Government is considering removal of its reservation regarding child labour, which will include re-assessment of New Zealand's ability to comply with the minimum employment age requirements of the Convention on the Rights of the Child. This work may also help to clarify whether New Zealand is in a position to ratify the ILO Convention 138.

91. Before the end of the year the Government intends to ratify the ILO Convention No. 182 on the Worst Forms of Child Labour (subject to the completion of domestic constitutional processes). Officials are to report back in March 2001 on options for implementation. This will strengthen protection against the worst forms of child labour.

### **Refugee children**

#### **Committee's concern**

**“The Committee expresses its preoccupation that government support services to refugees and asylum seekers, including children, appear to be differentiated according to whether persons are admitted as refugees under agreement with the UNHCR or are present in the country as the result of an individual's application for asylum.”**

#### **Committee's recommendation**

**“The Committee recommends that all refugee children, including asylum seekers coming to New Zealand outside UNHCR-organised schemes, be given the benefit of introduction assistance and Government-delivered or funded support services.”**

92. Asylum seekers (including children) are entitled to receive the same level of publicly-funded social welfare, health care and education as quota refugees and other people lawfully in New Zealand. The Government funds programmes for organisations working with refugees and community-based orientation programmes for refugee families.

93. However, the Government does not consider it practical to provide asylum seekers with the same six-week induction programme that quota refugees go through immediately on arrival in New Zealand. The majority of asylum seekers lodge their claims after they have been in New Zealand for some time (eg, three to six months after initial arrival and when their visitor or work permit expires). Only 20 to 30 percent of claimants are found to be genuine refugees and they have usually already been in New Zealand for up to two years by the time their claim is determined. Therefore, they would not require the same induction that is offered to quota refugees. (See paragraphs 841-854.)

### **Publication of Initial Report**

#### **Committee's recommendation**

**“Finally, in the light of article 144, paragraph 6 of the Convention, the Committee recommends that the *Initial Report*, and written replies presented by the State party be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including with the concerned non-governmental organisations.”**



94. The Ministry of Youth Affairs published and circulated New Zealand's *Initial Report* in 1995. After examination of the report in January 1997, a bulletin was published by the Ministry of Foreign Affairs and Trade and circulated widely. This bulletin included:

- information about the questions asked by the Committee
- New Zealand's responses
- the full text of the Committee's concluding observations
- the full text of the Convention.

95. Both documents were sent to NGOs with an interest in children's rights issues, public libraries and government agencies. Both the *Initial Report* and the information bulletin are still available on request. (See Annexes 7 and 8.)

## **PART 1: GENERAL MEASURES OF IMPLEMENTATION**

### **Introduction**

96. This part of the report provides information about the general steps New Zealand has taken to implement the Convention and create an environment in which children's human rights are respected. The majority of the Committee's concerns and recommendations from New Zealand's *Initial Report* relate to general measures of implementation.

#### **A. Measures taken to harmonise law and policy with the Convention**

##### **Reservations**

97. New Zealand has three reservations to the Convention relating to children unlawfully in New Zealand, child labour law and age mixing in prisons.

98. The Government plans to review these reservations. Information about the reservations, relevant developments during the reporting period and Government's plans to review them, is contained in paragraphs 23-24 above.

##### **International agreements**

99. New Zealand has strongly supported and contributed to international efforts to strengthen human rights protections for children.

##### **Optional Protocols to the Convention**

100. New Zealand actively participated in developing both optional protocols to the Convention and was pleased to be among the first states to sign both instruments at the Millennium Summit. These will be ratified once domestic constitutional processes are complete.

##### **ILO Convention 182 on the Worst Forms of Child Labour**

101. New Zealand was also an active participant in negotiating the International Labour Organisation's (ILO) Convention 182 on the Worst Forms of Child Labour. In June 2000 New Zealand signed the Convention upon its adoption by the ILO and is currently working towards ratification. The Government has given high priority to this work and it is hoped that implementing legislation will be passed and the Convention ratified by the end of the year 2000.

##### **The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption**

102. New Zealand acceded to the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption on 18 September 1998. Processes for implementing the Convention are set out in the Adoption (Inter-country) Act 1997 and regulations made under this Act which came into force on 1 January 1999. (Please see paragraphs 475-484.)

## **The Hague Convention on the Civil Aspects of International Child Abduction**

103. As noted in paragraphs 165 to 168 of the *Initial Report*, New Zealand is a party to the Hague Convention on the Civil Aspects of International Child Abduction which is implemented through the Guardianship Amendment Act 1991.

### **Other Agreements**

104. New Zealand took part in negotiating the draft protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children that will supplement the UN Convention on Transnational Organised Crime. New Zealand was also active in developing the Ottawa Convention against landmines and ratified this treaty in 1999.

### **Conformity of law and practice with provisions of the Convention**

105. New Zealand understands that the Convention emphasises the inter-dependence and significance a child's family and community life has on their well-being. Accordingly, both parents and the Government have responsibilities to children. The Convention recognises that parents are generally best placed to determine their children's needs. Governments have a role in both crisis intervention and in assisting parents with resources, information and support.

106. New Zealand acknowledges the Treaty of Waitangi is fundamental to the Crown's relationship with whanau, hapu, iwi and Maori communities. Building on the Treaty principles of partnership, participation and protection, the Government envisages a greater role for Maori communities in developing policies and services that affect them. New Zealand therefore strives to take general and specific measures to harmonise national law and policy with the Convention's provisions to enhance measures available for both parents and children.

107. New Zealand government departments are encouraged to consider the implications of the Convention when developing policy to ensure it conforms to the Convention's provisions. Following a conference on the Convention in July 1999 (organised by the Children's Issues Centre at the University of Otago, Dunedin), a network was established to provide officials who are working on various policy initiatives with a forum to work through children's rights issues. This network helps raise awareness and understanding about the Convention and the potential for children's rights concepts to be used to enhance policy work. It also allows possible problem areas to be identified as they arise. The Ministry of Youth Affairs facilitates this forum and encourages representatives from different agencies to participate.

108. The Ministry of Youth Affairs has promoted using the Convention when developing policy based on the following principles:

- the Convention is a tool to help develop child and youth policy
- aligning current and planned policy work with the Convention's principles will enhance compliance

- the reporting process provides Government with an opportunity to review and endorse its commitment to children's and young people's rights and well-being
- establishing an open process for reporting under the Convention will make reporting easier for both government and non-government agencies.

109. The Ministry of Youth Affairs advised that government agencies should establish processes to ensure legislation and policies were consistent with the Convention. These agencies responded by asking for assistance with the ongoing monitoring and implementation of the Convention. In 1999, the Ministry developed and distributed a template that helps agencies record progress and foster improvements by:

- helping them contribute to Government reports on compliance with the Convention
- providing a process so that agencies can ensure policy measures are consistent with the Convention.

110. As required by article 4 of the Convention, New Zealand is aware that consistent and systematic effort is required to ensure that all appropriate legislative, administrative and other measures are taken to implement the Convention.

111. Submissions showed concern that since ratification, legislation has been introduced or contemplated that may affect New Zealand's implementation of the Convention. For example:

- search and seizure powers relating to children in residential care (see paragraphs 380-385)
- lowering the age of criminal responsibility (see paragraphs 39-43).

112. New Zealand acknowledges that it needs to do more to ensure the Convention's principles in legislative, policy and practice development are proactively applied.

### **Human Rights Act**

113. As noted in the *Initial Report* (paragraph 5) the Human Rights Act 1993 required the Human Rights Commission to examine all Acts, regulations, Government policies and administrative practices, and to report to the Minister of Justice before the end of 1998 on any conflicts with the provisions of the Human Rights Act, and any infringements of the spirit or intention of the Act. This examination was conducted by the Human Rights Commission in conjunction with individual government departments and was known as *Consistency 2000*.

114. Early in 1997, the Government became concerned about the significant resources committed to *Consistency 2000*. Due to be completed at the end of 1998, the Government revisited the project in October 1997 and found that many of the inconsistencies identified were repetitive or minor in nature.

115. The Government introduced a Human Rights Amendment Bill to Parliament on 19 August 1998. That Bill:

- relieved the Human Rights Commission of its statutory duty to report on the *Consistency 2000* project
- clarified the non-primacy of the Human Rights Act over other legislation
- added new exceptions or clarifications to the Act for government-related services in the areas of social welfare, health, and defence
- preserved age-linked retirement benefits
- designated a Women's Commissioner in the Human Rights Commission.

116. However, this Bill failed to gain sufficient support in Parliament to progress beyond the introduction stage of the legislative process. Accordingly, the Government did not progress that Bill but introduced a second bill, the Human Rights Amendment Bill (No. 2), which was passed and came into effect on 1 October 1999.

117. The Human Rights Amendment Act (No. 2) contained the following elements:

- The expiry date in respect of the Government's exemption from the new grounds in the Human Rights Act (see paragraphs 35-39 of the *Initial Report*) and the current status of the Act in relation to other legislation was extended from 31 December 1999 to 31 December 2001.
- The expiry date in respect of section 126B of the Social Security Act 1964 was extended from 31 December 1999 to 31 December 2001 - this provision exempts certain acts done in relation to the granting of a benefit or assistance from the application of the Human Rights Commission Act 1977 or the Human Rights Act 1993.
- The Minister of Justice is required to report to Parliament on a six-monthly basis on progress in addressing significant areas of inconsistency between existing legislation and the Human Rights Act.
- The Human Rights Commission is empowered to comment on the Minister's report before it is presented to Parliament, with any such comment being included in the Minister's report.
- Age-linked retirement benefits contained in employment contracts in force on 31 December 1998 are deemed not to be in breach of the Human Rights Act.

118. The Human Rights Amendment Act's primary purpose is to preserve the government's compliance with the Human Rights Act for a limited period so Parliament has reasonable time to consider the complex issues surrounding government compliance with the Act.

119. Additionally, the Government will ensure that all regulations made after 1 January 2000 are consistent with the Human Rights Act unless it is specifically authorised in an Act of Parliament or an exemption had been proposed in the original Human Rights Amendment Bill 1998. The Government will ensure the Human Rights Commission is adequately resourced to carry out its role under the Human Rights Amendment Act.

120. All Cabinet papers must now contain a paragraph on the Human Rights Act implications of the policy proposal. The Ministry of Justice has prepared guidelines to assist policy makers with this requirement.

121. The new Government (elected in November 1999) is committed to improving human rights in New Zealand and will report to the House of Representatives on progress in remedying significant inconsistencies between existing legislation and the Human Rights Act 1993. The Government proposes to:

- follow up on agencies' current knowledge of inconsistencies between the Human Rights Act 1993 and other legislation
- confirm the Government's expectations regarding agencies' compliance with the Human Rights Act 1993.

122. There is a general lack of information and understanding of human rights and their application in New Zealand. Ways to address these issues have been recommended to the Government after a Ministerial Re-evaluation of the Human Rights Act 1993 and the roles, interrelationships, operation and structures of human rights agencies in New Zealand. (See paragraph 54.)

### **Status of the Convention**

123. New Zealand does not have a written constitution and operates a Westminster style of government that includes three independent branches, the Executive, Judiciary and Parliament. Because New Zealand has ratified the Convention it is very persuasive, but it does not override New Zealand law.

124. New Zealand's government and legal system are based on the principle of Parliamentary Sovereignty. (See Core Document.)

125. The Convention has not been enacted into domestic legislation, although several pieces of legislation reflect its principles. For example the best interests principle is in the Children, Young Persons and Their Families Act 1989 and the Guardianship Act 1968.

126. During public consultation meetings a question was asked about whether the Convention can be enforced. The Human Rights Commission pointed out that the justice system can provide an avenue for ensuring the Convention's articles are adhered to, and that the Courts have been quite creative in doing this.

### **Judicial decisions**

127. The Courts have affirmed that the rights in the Convention should not be read in isolation from one another and that the Convention should be read as a whole to ascertain how best to balance those rights (*Re Adoption of PAT* (1995) 13 FRNZ 651, see Annex 9).

128. There have been a number of significant Court decisions about the Convention. While jurisprudence on the Convention continues to develop, the Courts appear to have found the Convention helpful, particularly where domestic law requires a decision to be made about the welfare of a child (see for example *Re the W Children* (1994) 12 FRNZ 548, see Annex 10).

129. The Courts have particularly recognised the significance of the fundamental principles set out in articles 2, 3, 6 and 12 of the Convention in helping to balance a child's rights in a particular case (see for example *DGSW v R* (1997) 16 FRNZ 357, see Annex 11).

130. Harmonising the Convention with specific laws has also been the focus of judicial consideration in a number of cases. For example, considering:

- a child's refusal to receive life-saving medical treatment (*Re W (A minor) (Consent to Medical Treatment)* [1993] 1 FLR 1 CA, Annex 12)
- separating children from parents in immigration matters (*Puli'uvea v Removal Review Authority* (1996) CA 236/95, Keith J);
- a child's need for care and protection under child welfare legislation (*DGSW v G* (1995) 15 FCNZ 23, Annex 14); and
- adoption and placement of children (*G v T* (1996) 15 FRNZ 213, Annex 15).

131. However, a study by the Children's Issues Centre (based at Otago University in Dunedin) suggests the Courts are not using the Convention as much as they might in their judgements. The study examined Family Court decisions for the years 1990 (before New Zealand signed the Convention), 1994 and 1998 and looked at a range of cases relevant to the Convention, including:

- adoption
- custody
- access
- care and protection

- abduction/wrongful removal
- violence
- child support
- medical treatment
- other paternity and guardianship issues.

132. The Convention was mentioned in only 22 of the total 691 judgements (3.2 percent). The Convention was mentioned in six cases in 1994 and in 16 cases in 1998.

133. New Zealand continues to pay attention to the developing jurisprudence on the Convention, particularly as this affects policy development. It is an ongoing issue to provide adequate resourcing to ensure children and young people have access to the Courts, such as through providing access to legal aid and other legal services.

134. Children can make applications under the Domestic Violence Act with the assistance of a third party. In other cases children in proceedings before the Family Court can be represented by Counsel for the Child. Appointment of Counsel for the Child is mandatory for proceedings under the Children, Young Persons and Their Families Act 1989.

#### **Remedies in cases of violation**

135. Children can access a number of agencies if their rights have been violated, including:

- the Office of the Commissioner for Children
- the Human Rights Commission
- the Health and Disability Commissioner
- the Ombudsman
- the Race Relations Conciliator
- the Privacy Commissioner.

136. The Office of the Commissioner for Children is a particularly important avenue for information and redress as it makes complaints from children a priority. It also recognises the difficulties children face when making complaints so it:

- accepts toll calls
- ensures complaints are responded to within a child-friendly timeframe



- takes care to provide clear information and advice
- where possible, refers the child to help within their own community.

137. There is only one Office for the Commissioner for Children (in Wellington) but since its web-site was established, staff have noticed more direct contact from children. The web-site has a page especially for children with information on how they can make a complaint. The Office would like to have a freephone to improve further children's access.

138. The Commissioner for Children also monitors complaint systems within the statutory Care and Protection system and ensures that children and young people have access to procedural fairness while in and out of home care.

139. All of the agencies noted above accept complaints from children and young people. In general there are no specific processes for responding to complaints from children and it is not clear how many complainants are children. But, for example, the Office of the Race Relations Conciliator has a user-friendly process for making complaints and it encourages people to have an advocate - this is particularly helpful for young people.

140. The Human Rights Commission's data collection on their freephone line is now sophisticated enough to identify the age of complainants and inquirers so it will now be able to monitor numbers of child complainants.

141. Despite the availability of these agencies, there are not always effective remedies available to children as the list of issues raised in paragraph 344 below shows. These include:

- access to lawyers
- inability to report bad experiences with the police
- timeliness of responses to complaints about residential care.

142. Recognising the need to improve advocacy for students and their parents/caregivers in the education sector, Budget 2000 allocated \$700,000 over four years to establish a dedicated Education Advocacy Service in the Office of the Commissioner for Children. The Commissioner's office deals with a significant number of inquiries and complaints about the education sector and this initiative builds on the existing structures and relationships.

### **National Strategy**

143. The Government is developing a Children's Policy and Research Agenda (the Agenda) to provide a framework and to inform policy development and research relating to children across government over the next five years. The Agenda will be based on the Convention and cover the under 18 age group. Development work on the Agenda will be completed by July 2001 and additional information will be provided when New Zealand presents this report to the Committee.

144. The first step was a Child Policy Seminar held on 19-20 July 2000 which brought together child advocates from the public and community/voluntary sectors. The purpose was to identify key issues for children and to start building a consensus about the way forward.

145. A Children's Policy Reference Group (Reference Group) was established with a primary objective to provide the Ministries of Social Policy and Youth Affairs with direct input into the Agenda's development. Additionally, the Reference Group will contribute to ongoing policy development relating to children and young people.

146. The members were selected based on their expertise, rather than as representatives of specific organisations or sectors. They provide a broad range of interests, perspectives and expertise that relate to children and young people, and they offer the network and skills to encourage children and young people to contribute to the policy development.

147. The Ministry of Social Policy will also develop advice on research priorities on children's issues. This is a separate but related process as it seeks input from experts in the children's research area and involves consulting widely to develop research priorities for children.

148. The Government is also progressing a Youth Development Strategy Aotearoa (the Strategy) over the next two years which covers the 12 to 25 age group. The Strategy will take a developmental and preventative approach to the issues facing young people and set out a range of integrated responses. It will be developed in close consultation with:

- young people
- key youth-focused organisations
- service providers
- local government
- central government agencies.

149. The aim is to improve outcomes for young people through a more co-ordinated approach to deliver youth services and increase youth participation in the decision-making process. It will be consistent with the Convention.

150. There are strong links between the Agenda and the Strategy and steps are being taken to ensure these two initiatives complement each other, particularly for the 12 to 18 age group where there is overlap.

## **B. Mechanisms to co-ordinate policies relating to children and monitor implementation of the Convention**

### **Co-ordination of policies affecting children**

151. Effectively co-ordinating policies and services that affect children remains an issue for New Zealand. Submissions from non-government organisations noted serious deficiencies in co-operation between government agencies. The Office of the Commissioner for Children's report into the death of James Whakaruru (see paragraphs 515-516) was an example of the consequences this lack of co-operation across levels of government can have.

152. The focus of the previous Government's work on co-ordination was the Strengthening Families Strategy. The main focus of the new Government is on a co-ordinated approach to addressing inequality. This includes co-ordinating policies that relate to children.

153. In 1998, the Government released the "Strengthening Families for Well-Being" document (see Annex 16). It sets out the Strengthening Families Strategy which operates on several levels:

- local initiatives where local management groups develop a case management model to increase the level of services targeted to those most at risk
- policy makers and funders constantly scrutinise existing programmes and services to see how they might be adapted or changed to provide better forms of remedial or early intervention and prevention.

### **Monitoring**

154. Monitoring the outcome of policy on children is difficult because of:

- the required resources
- the time it takes for outcomes to appear
- problems deciding which outcome can be attributed to which policy initiative.

155. Improving how the government obtains children's and young people's views should help to monitor the impact of policies. This will be part of the Children's Policy and Research Agenda development.

156. The Ministry of Social Policy is currently undertaking monitoring and evaluation of a number of policies and programmes including:

- Family Start
- Social Workers in Schools

- Youth Services Strategy
- Youth Horizons Trust
- Domestic Purposes Benefit.

157. The Police programmes Youth at Risk of Offending, and the Youth Education Service (YES), have been comprehensively evaluated (see paragraph 959). The police are currently assessing the best way to monitor and evaluate the additional resources provided to Police Youth Aid in the last budget.

### **Reform of Social Welfare Administration**

158. There have been continued structural reforms of social welfare agencies' configuration. In 1992 the Department of Social Welfare had six business units:

- Income Support (IS)
- Children, Young Persons and their Families Service (CYPFS) (earlier the Children and Young Persons Service (CYPS))
- New Zealand Community Funding Agency (NZCFA)
- Social Policy Agency (SPA)
- Corporate Office
- Tritec.

159. The Department of Social Welfare no longer exists as a result of the following reforms:

- In 1998 the Employment Services and Income Support (Integrated Administration) Bill was passed to establish the Department of Work and Income.
- On 1 October 1998 Income Support was integrated with the New Zealand Employment Service (formerly part of the Department of Labour) to form the new Department of Work and Income.
- In 1999 the Department of Child, Youth and Family Services Bill was passed to establish the new department.
- On 1 January 1999 NZCFA and CYPFS integrated to form the Children, Young Persons and their Families Agency (CYFA).

- On 1 October 1999 CYFA became the new Department of Child, Youth and Family Services.
- On 1 October 1999 SPA integrated with Corporate Office to form the new Ministry of Social Policy.

160. The Department of Child, Youth and Family Services is responsible for services to children, young people and their families in relation to preventing abuse and neglect through education and public awareness, protection, child and family support, youth services including youth justice, family group conference services and adoption services. The department is also responsible for funding a range of community based support services and works closely with other government and non-government agencies.

161. The Ministry of Social Policy's role is to provide policy and purchase advice, backed up by in-depth knowledge and data. The policy group has two principle roles, to:

- provide strategic social policy advice across social policy departments/ministries dealing with people who are socially excluded
- provide policy advice about income support, children, young persons and families, housing, retirement incomes and positive ageing, and the community and voluntary sector.

162. The purchase and monitoring group provides advice to Ministers in relation to social sector delivery agencies.

### **Government agencies that promote children's rights and monitor implementation**

163. The Ministry of Youth Affairs has retained responsibility for co-ordinating New Zealand's reports to the Committee. However, all agencies are responsible for implementing UNCROC.

164. The Ministry of Youth Affairs' template for agencies to monitor the Convention has helped in developing this report. This initiative might also assist ongoing monitoring and encourage policy development that is consistent with the Convention.

### **Commissioner for Children**

165. New Zealand has had an Office for the Commissioner of Children since 1989 (see paragraph 9 of New Zealand's *Initial Report*).

166. Work is currently being done on the merits of amending the Commissioner for Children's functions and powers to give better effect to the Convention's implementation and monitoring. Whether the Commissioner should become an Officer of Parliament is also being considered (see paragraphs 56-62 above).

### **Data collection, indicators and complaints registration**

167. Qualitative and quantitative information on the status of children is fundamental to New Zealand's ability to report on, and assess implementation of, the Convention. Submissions emphasised the need to improve the collection of data about children. Steps have been taken to both enhance existing information collection and data distribution, as well as consider the development of new information collection systems.

168. New Zealand will continue to seek ways to improve data collection on children and to identify indicators of well-being and it acknowledges that further work is needed. The Government will monitor progress in addressing the Committee's concerns about data collection systems and indicators of childhood well-being (see paragraphs 63-66 above) and will provide updated information when this report is presented to the Committee.

### **National census**

169. The national population and dwelling census, conducted every five years, is a major source of information on children and was last conducted in 1996. In addition to publishing general information from the census, data has been distributed to highlight the position of children and young people. Statistics New Zealand has published a series of books of disaggregated data on specific populations such as *Children, Young People, Maori, Families and Households, People and Places* (see Appendices 18-22). Disaggregated information profiles on Pacific Islands' populations were also released in 1998. However, that information is not age-specific.

170. The current age breakdowns for census data are 0 to 4, 5 to 9, 10 to 14 and 15 to 19 years. Information about 16 and 17 year olds is not reported except as part of the aggregated 15 to 19 year age group data. However, this data can be disaggregated into single year age groups on request.

### **Data relating to Maori children**

171. Submissions stressed the need to present negative statistics for Maori children and young people within the context of the structural and systemic factors that underlie and sustain these negative results.

172. The Government has agreed to improve collection of ethnic data across agencies, including improving processes for collecting data about Maori. In 1999 Te Puni Kokiri (the Ministry of Maori Development) signed official data protocols with Statistics New Zealand. The two agencies are engaged in ongoing discussions to improve the collection of data relating to Maori.

173. The Department of Maori Studies at Massey University is carrying out a longitudinal study of Maori households. The Te Hoe Nuku Roa project aims to provide a sound empirical base that will inform Maori and other planners and facilitate policy and programme development appropriate to Maori advancement in cultural, social and economic terms. The study

incorporates measures for the characteristics of cultural identity. The stability of these characteristics will be tested over time. Data obtained from an initial cross-sectional approach will be supplemented by a longitudinal study so that levels can be continued over 10 and 20 year periods. The study's four aims make it significantly different from others:

- it considers the major influences acting on Maori society - it proposes a Maori framework to gauge personal and family development
- it examines the relationships of Maori families and individuals with structures in New Zealand society at local, regional and national levels and includes Maori social structures
- the integrated nature of the study provides a basis to develop co-ordinated policies and programmes, mainly by Maori
- adopting a longitudinal approach allows the study to chart the natural history of families and individuals and to assess the impact of policies and programmes introduced to address their needs.

174. This study will be relevant to developing indicators specific to Maori children, especially on the situation of Maori children in New Zealand.

### **Sector Specific Data Collection Initiatives**

175. Some sector-specific data collection initiatives have also enhanced the information available about children.

176. The Social Work Information System (SWIS) used by Child, Youth and Family Services is designed to record social work interventions with children, young people and their families. It uses this information to report to government in aggregate on key performance measures that relate to aspects of service delivery. (SWIS is being replaced by an information system called CYRIS)

177. SWIS also provides information on the number of notifications of alleged child abuse or neglect and this information can be disaggregated. For example, information is available on:

- how many notifications were sufficiently serious to investigate
- how many investigated cases led to a finding of substantiated abuse or neglect
- how many resulted in emergency protection action
- how many led to subsequent Family Group Conferences
- how many resulted in a change in living situation for the child.

178. Disaggregations by demographic characteristics are also possible, including age, gender and ethnicity data.

179. Tracking in the social services sector means it is now possible to examine the benefit system for specific children. This makes it possible, for example, to determine the length of time that children are continuously dependent on a caregiver that is reliant on income support (regardless of changes in caregiver). These give an insight into the number of children spending extended periods in poverty. The Strengthening Families project has also prompted innovative responses to data sharing. Local initiatives have relied on agency workers sharing case information at the local level to ensure service delivery to at-risk families by different government agencies is co-ordinated.

180. The Police have also created a database for collecting hapū/iwi data on Maori offenders and are currently considering methods for reliable acquisition of that data. Presently only ethnicity is recorded - a more specific level of data collection will facilitate the trend in matching individuals to appropriate iwi-based/hapu-based services.

181. In June 1999, the Department of Corrections completed a major information technology redevelopment. The Integrated Offender Management System provides a single offender record that follows all the offender's sentences/orders, including any future sentences. This computer-based system allows key information to be collected which supports more effective decision-making at an operational and management level. The department has also developed systems for measuring its performance in reducing re-offending. The Recidivism Index will measure performance on reducing overall rates of re-offending and the Rehabilitation Quotient will measure performance on specific rehabilitation and re-integrative initiatives. Collectively these measures will help prioritise processes and the purchase of services to reduce re-offending.

182. A major project is underway to identify and analyse information and reporting needs for the Family Court to identify the need to further develop its database.

183. There are a variety of data collection options that New Zealand wishes to explore during the next reporting period.

184. While census data provides a sound base of data, other qualitative and quantitative sources of information should also be developed, such as:

- creating better links between universities and research institutions
- getting non-governmental and government agencies to work together to gather and disseminate information
- involving children and young people in the actual design and collation of information.

185. These options will be explored when developing the Children's Policy and Research Agenda and the Youth Development Strategy.



186. Since 1997 indicators of childhood well-being have been developed to identify and measure the social and economic position of children in New Zealand. The Ministries of Health, Education and Social Policy have updated these measures and will continue to update information and indicators on an annual basis. The Ministry of Social Policy will develop this further within its work on strategic social policy.

187. Statistics New Zealand will lead work on reviewing data collection systems. It is leading a data integration project that proposes to work on implementing common data standards and integrating variables. The initial stage of this work programme is likely to review current practices and the resulting quality of data across different agencies and ministries. A recommended work programme includes matching datasets, implementing common definitions and output standards across social administrative datasets. Statistics New Zealand will provide progress reports to its Minister annually.

188. Other work that can contribute includes the Child Health Information Strategy that will link information about children across different providers. This will improve children's and young people's access to appropriate services. Submissions concluded that because child health statistics for the 15 to 17 year olds are missing from the picture, this age group is missing out on appropriate health services for their age (see paragraphs 562-648 regarding assessing and improving existing health services).

189. The New Zealand Health Information Service (NZHIS) is committed to providing accurate statistics and improving the ethnicity recording for morbidity and mortality statistics. NZHIS publishes ethnicity information brochures that cover what is an ethnic group and why it is important to ask the question about ethnicity. Through funding contracts, public hospitals are required to provide ethnicity data for all in-patient and day-patient discharges, although out-patient and accident and emergency information is not available. Doctors in primary care are not required to report ethnicity and generally do not collect this information.

### **Co-operation with civil society**

190. There have been several initiatives in co-operation with civil society, often initiated by NGOs and frequently revolving around sharing information and expertise.

191. An example is the Canterbury Youth Workers Collective's Global Voice initiative which grew from meetings with the Ministry of Youth Affairs and a representative from Action for Children in Aotearoa, who had been encouraging the community's input for the next NGO report on the Convention. A working party was formed by the Canterbury Youth Workers Collective to collect young people's views on the Convention. A youth summit was decided as the most effective forum.

192. Global Voice was held on 26 March 1999 in Christchurch and 256 young people took part. Workshops were developed around issues raised by New Zealand's *Initial Report*. The Ministry of Youth Affairs supported Global Voice and the Prime Minister and Minister of Youth Affairs sent messages of support.

193. Visits from international experts on children's rights issues sometimes provides the opportunity to work with civil society. For example, the Ministry of Youth Affairs worked with civil society representatives to facilitate Peter Newell's visit in November 2000 to commemorate the 10th anniversary of the United Nations' adoption of the Convention. He shared his knowledge and promoted discussion through:

- a one day conference (organised by NGOs)
- meetings with officials from local and central government
- a workshop with government officials working on the Convention
- media interviews.

(Please see paragraph 227.)

194. In 1998, Professor Vitit Muntarbhorn from Chulalongkorn University in Bangkok was in New Zealand attending a conference. The Ministry of Foreign Affairs and Trade sponsored his visit to Wellington to meet with officials, members of the legal profession and those interested in human rights issues. There were also opportunities to share information with those working on the prevention of child sexual abuse and child pornography on the internet.

195. Also in 1998 the Ministry of Youth Affairs worked with UNICEF New Zealand to host a visit by Carol Bellamy, Executive Director of UNICEF.

### **Budget allocations relating to children**

196. Budget allocations in New Zealand are made sector by sector and allocation for services to children and their families (except for specific programmes) are included in general spending. This poses a challenge for efforts to analyse the priority given to children in budget allocation.

197. As part of the Children's Policy Agenda development and to address the Committee's recommendations, the Government will consider better ways of tracking its budget allocations relating to children. This information should provide a basis for future budget analysis.

198. In the meantime, the Committee's recommendation (see paragraphs 67-69) highlighted a number of issues about information gaps, co-ordination, and competition within budgets for services for children between prevention services and expensive remedial services:

- Data and Evaluation: a lack of data and information is hampering effective policy development, resource allocation, service delivery and the agencies' ability to work together. There remains a need for ongoing evaluation of budget initiatives.

- Co-ordination: better co-ordination is needed between sectors to ensure that early interventions target outcomes across all sectors (health/education/welfare/justice).
- Early intervention: is demonstrated to be more effective than later interventions in preventing poor outcomes for children and young people.

### **Budget trends**

199. Budget priorities are determined by Government's key policy objectives.

200. Reducing inequalities has been signalled as a key priority for the Government.

201. The Government sees that the route toward greater social and economic well-being for communities lies in building the communities' capacity to better identify and address their own needs. This approach sees the Government as a facilitator in developing local solutions to local problems, rather than providing uniform solutions at a national level. Maori have made it clear that they see the future as built upon the principle of "by Maori for Maori". The challenge for Government is not simply to "do things for Maori" but to ensure Maori can do things for themselves.

202. The Government has also increased budget allocations for Pacific children and children in low income families.

203. Prior to the change of Government, there have been a number of budget allocations giving priority to children, particularly in the following Strategic Priority Areas:

- strengthen families by intervening to break cycles of disadvantage
- improve individual's employment outcomes by expecting and encouraging active participation in work
- significantly improve the health, employment, education and housing status of Maori by ensuring better targeting and delivery of services
- prevent youth offending and re-offending by co-ordinated inter-agency and community-based action.

204. A wide variety of budget initiatives contributed to these strategic areas. Emphasis was placed on developing an inter-sectoral strategy that meets the particular needs of Maori children and young people.

### **Information about budget and income distribution**

205. Information has been gathered about budget and income distribution, particularly with reference to the growth in economic disparities. This information is used in policy and budget decisions.

206. For example, the Treasury's work on the *Changes in New Zealand's Income Distribution* found that income inequality rose in the 1980s and 1990s in New Zealand.<sup>2</sup> The rate of growth was fastest in the 1980s. New Zealand's level of income inequality has risen substantially relative to the levels in other OECD countries. The paper looked at factors contributing to income inequality which included:

- changes in household composition (such as the growth in single-parent households and older households without children)
- the growing proportion of workers in their prime earning years
- the growing proportion of workers with higher educational qualifications.

207. The National Health Committee compiled information on the determinants of health, which are attributed to economic reforms.

208. The Office of the Commissioner for Children is planning to produce a publication at the end of 2000 on child abuse that will include comment on the linkages between poverty and other socio-economic indicators.

209. The Ministry of Social Policy is conducting research into household living standards that will provide information on the economic circumstances of children, and further research on the determinants of those living standards. This initial work is due in May 2001. A second research programme is on family dynamics and family effectiveness. This Ministry has also commissioned a literature review to investigate the effects on children of living in families reliant on income support.

210. The last five years have seen a number of changes in the means test applicable to various forms of social assistance. Specifically, many families have become eligible for increased assistance and some families (who previously didn't qualify) are now able to receive social assistance. The major change has been the taxation surcharge removal (income test) applicable to New Zealand superannuation and the introduction of a more generous abatement regime for working age beneficiaries. Additional social assistance was made available to low to middle income non-beneficiary families.

211. While income tests are based on before-tax income, the after-tax income retained by many families increased as a result of the tax rate reductions of 1 July 1996 and 1 July 1998. In particular, the secondary tax rate applied to the non-benefit earnings of beneficiaries was reduced from 28 percent to 21 percent.

212. The following changes over the past five years are considered to be relevant:

- 1 July 1996: Increasing to \$80 per week (from \$50 per week or \$60 for people with children) the amount of other income beneficiaries can earn before their main benefit is reduced.

- 1 July 1996: Introducing a more generous benefit abatement regime for domestic purposes, widows and invalid beneficiaries, designed to encourage greater participation in part time work.
- 1 July 1996: Income thresholds applying to the tax surcharge for recipients of New Zealand Superannuation who had other income increased.
- 1 April 1998: Removing the tax surcharge for recipients of New Zealand Superannuation who had other income.
- 1 April 2000: Increasing rates of New Zealand Superannuation (over and above the annual CPI adjustment).
- Increasing the income thresholds for the community services card (1 July 1996, 1 July 1997 and 1 April 2000).
- Increasing rates of family support (1 July 1996, 1 July 1997 and 1 January 1998).
- Introducing the child tax credit (1 July 1996) and its subsequent increase (1 July 1997) for non-beneficiary families.
- Introducing the parental tax credit (1 October 1999) for non-beneficiary families.

213. The Department of Labour undertook research on changes in income disparities.<sup>3</sup> It focused on the changes that took place in the dispersion (or inequality) of wage and salary earnings in New Zealand between 1984 and 1997. The purpose was to describe in detail what changes occurred, not to explain their causes.

214. One important reason for studying the distribution of earnings is that the wage structure influences the level of New Zealanders' incomes, and hence their well-being.

215. Key findings of the study include:

- There were increases in the inequality of hourly and weekly earnings in New Zealand between 1984 and 1997. The real wages and weekly earnings of higher paid employees grew more rapidly than those of lower paid employees over this period.
- Much of the growth in earnings inequality occurred between 1984 to 1990, and 1995 to 1997. The changes were slower between 1990 and 1995.
- Differences in average earnings between workers with different levels of educational qualifications became larger, particularly during the 1980s. There was less change in educational earnings differentials during the 1990s.
- Most of the growth in earnings inequality occurred within groups of workers with similar levels of education and age.

- In international terms, the growth of earnings inequality in New Zealand over this period was relatively substantial, although it was not as rapid as the growth recorded in the United States and the United Kingdom.
- Growth in the dispersion of earnings is unlikely to have a single cause. Studies of the causes of rising wage inequality in other countries suggest that technological change, the expansion of international trade, changes in the industrial composition of employment and reductions in the density of union coverage have all played a role. Presently there is a lack of New Zealand research evidence on the relative importance of these possible causes.
- Inequality was rising both before and after the enactment of the Employment Contracts Act. The question of whether or not changes in labour legislation made any contribution to the rise in earnings inequality could not be properly addressed through this study.

216. Low family income impacts on early childhood education participation and achievement. The childcare subsidy is available to assist low-income families with the cost of early childhood education, although eligibility is reduced if parents are not working or training. The Ministry of Education is exploring other options to reduce financial barriers to early childhood education participation, such as access to transport and ability to meet sessional fees. Low-income families have less ability to pay for “extras” related to their children’s education, but school-age education remains free and income is not a significant barrier to participation in the essential elements of schooling as set out in the New Zealand curriculum. At the tertiary level, student allowances are targeted to students from low-income households, and student loans also help to overcome financial barriers to participation.

### **C. International co-operation**

217. A feature of Pacific communities in New Zealand is the strength of their ongoing links with Pacific countries of origin. There is therefore a close correlation between poverty alleviation efforts in New Zealand and the objectives of the New Zealand Official Development Assistance (NZODA) Programme in developing countries in the South Pacific.

218. NZODA emphasises support for strong economic enterprise based on:

- developing human and cultural resources
- social development (particularly education and health)
- promoting the role of women, minorities and other disadvantaged groups
- recognising the importance of the environment and the effective management of natural resources.

219. Many of these objectives mirror domestically-focussed initiatives. New Zealand is currently considering the implementation of a children's policy, including a reference to the "First Call for Children", to guide the NZODA administration.

220. The New Zealand Government is exploring some of these synergies in more detail, through:

- a series of seminars on the NZODA programme amongst Pacific community groups in New Zealand cities
- focussing on NZODA experience in small business development
- exploring the scope for greater involvement of suitably qualified New Zealand-resident Pacific peoples in the NZODA programme.

221. Health is another area where there is a direct link between NZODA efforts to improve health indicators in the region and the health of Pacific communities in New Zealand.

#### **D. Measures to make the principles and provisions of the Convention widely known**

222. A variety of measures have been taken to make the principles and provisions of the Convention widely known. However, feedback to the government suggests knowledge about the Convention and its principles is limited. Many people in consultations on the draft report referred to the lack of public knowledge about the Convention and talked of the blank faces that greeted any mention of the Convention. As one person put it, "It worries me that I am active in the youth community of New Zealand and I had never heard anything about it before I was sent this package" (referring to "Keeping New Zealand's Promise" the information kit published by Youth Affairs).

223. The results of the Article 42 Project (see paragraphs 231-234) indicate that New Zealand still has progress to make to ensure the principles and provisions of the Convention are widely known to children. Increasing the awareness of children and young people, those working with or caring for them, and officials therefore remains a priority. New Zealand sees more work needs to be done to raise awareness about the existence of the Convention and encourage its use in policy development and practice.

#### **Translation**

224. In September 1999, on the 10th anniversary of the adoption of the Convention by the United Nations, Te Puni Kokiri and the Office of the Commissioner for Children jointly published a booklet, *United Nations Convention on the Rights of the Child* (Annex 24). The booklet was produced as a bilingual version in both Maori and English to mark the United Nations International Decade of the World's Indigenous People, which runs from 1995 to 2005.

225. Additionally a colourful poster was produced in English and Maori summarising children's rights (Annex 25).

### **Measures to publicise the Convention - numbers of meetings, broadcasts and publications**

226. Following New Zealand's *Initial Report*, a number of steps were taken to publicise the Convention's principles and provisions. The *Initial Report* was published in November 1995 and distributed to government agencies. In 1997 the Ministry of Foreign Affairs and Trade, Human Rights Division, produced a bulletin (Annex 9) about the presentation of the *Initial Report* and distributed it to non-governmental organisations and other interested parties and organisations.

227. In November 1999, several steps were taken to publicise the 10th anniversary of the signing of the Convention. The Ministry of Youth Affairs supported Peter Newell's visit (see paragraph 193) which:

- raised awareness of the Convention amongst New Zealanders
- provided information on the reporting process
- shared practical information regarding the implementation of the Convention into all facets of New Zealand society
- stimulated discussion on the ways that everyone can promote and protect the well-being of children and young people
- prompted meetings with NGOs and community people, local bodies and government officials
- received media attention.

228. The Ministry of Youth Affairs has held several meetings to publicise the Convention and foster open communication with NGOs. These meetings have been held in Auckland (approximately 10 meetings), Wellington (approximately 10 meetings) and Christchurch (approximately two meetings). The Ministry publishes a newsletter twice a year that often has an item on the Convention. In addition there is some information on its website ([www.youthaffairs.govt.nz](http://www.youthaffairs.govt.nz)).

229. Various Ministers of Youth Affairs (there have been four during the reporting period) have raised the Convention in speeches and presentations.

### **Steps to make the Convention known to children**

230. There have been a variety of steps taken to make the Convention known to children. However the level of awareness amongst children is still very limited.



### **Article 42 Consultation Project**

231. In early 1997 the Ministry of Youth Affairs and Commissioner for Children were approached by Linda Gilbert, an advocate for children, and asked to support a project that had the following aims:

- to find out how many young people had heard of the Convention and what aspects they would like to know more about
- to obtain young people's advice on ways other young people can be involved in developing and producing future resources about the Convention
- to ask young people how they contribute to decisions about themselves.

232. A Youth Advisory Group worked with Linda Gilbert (who was the project co-ordinator) on the project. Information was collected through a survey. Over 1,000 children and young people responded. Five outreach education sessions were also conducted with various groups of adults and young people. Fifty-three percent of children and young people who answered the survey knew about rights that children have but only 23 percent knew about the Convention.

233. Based on this, the Youth Advisory Group and project co-ordinator made a series of recommendations (see Annex 26) including:

- working through schools to let young people know about the Convention
- developing policy guidelines so local youth groups and city councils can produce appropriate information and resources about the Convention at their local level
- ensuring information about the Convention is produced in a variety of ways.

234. As yet there has been no specific response to these recommendations.

### **Global Voice**

235. Global Voice was an initiative of the Canterbury Youth Workers Collective (see paragraphs 191-192 above). The information and learning from Global Voice are available to help other children and young people take part in the reporting process.

### **Children's Policy and Research Agenda**

236. The Convention is fundamental to the Children's Policy and Research Agenda. It will be one vehicle by which young people will be better informed about the Convention in general (see paragraphs 143-147).

### **Tearaway Magazine**

237. *Tearaway* is a magazine for children and young people. It has a readership of over 260,000 of 10 years of age and over. It is delivered through secondary schools and McDonalds' Restaurants. The Ministry of Youth Affairs has a page in *Tearaway* eight times a year that has been used several times to provide information about children's rights and the Convention.

### **Education to public officials**

238. Education for public officials working on policy has largely been through meetings and comments on draft papers. The Ministry of Youth Affairs has hosted several meetings and seminars with other departments to raise awareness about the Convention and its application to policy work.

239. As noted above in paragraph 107, in July 1999 a network was established to provide a forum for officials working on various policy initiatives to work through children's rights issues with colleagues from other departments.

### **Training of professional groups**

240. There has been very limited training of professional groups on the Convention. All staff working in specialist units in prisons receive training about UNCROC.

241. The Ministry of Youth Affairs has also completed some basic awareness raising with limited numbers of police officers, trainee teachers and nurses.

### **Incorporation on professional training curricula and codes of conduct**

242. There has not been much development in this area during the reporting period. The Government is aware of one youth worker collective which has incorporated the Convention into its code of ethics, and one more that is planning to.

### **Steps to promote understanding by mass media**

243. There have been few steps taken by government to promote understanding of the Convention by the mass media. The main measure has been to promote visiting experts and facilitate interviews with them (see paragraphs 193-195).

244. NGOs have been effective in raising awareness of the Convention within the mass media, especially the print media.

**Participation of non-government organisations in awareness raising**

245. As noted above NGOs were active in raising awareness. Many of the measures noted above have been undertaken at the initiation of non-government agencies and often with government and non-government agencies working together. An area where these partnerships have been particularly fruitful is in facilitating visits by overseas experts on the Convention and making sure their knowledge is shared with as many people as possible.

## **PART 2: DEFINITION OF THE CHILD**

### **Introduction**

246. As noted in New Zealand's *Initial Report* (see paragraphs 16 to 28), there is no overarching law in New Zealand that defines a "child". Since then there have been very few changes to legal age limits affecting children. (Please see paragraphs 39-48 for New Zealand's proposed response to the UN Committee's concerns on this issue.)

### **Sale of tobacco**

247. The Smoke-free Environments Act 1993 was amended in 1997 to make it an offence to sell tobacco products to anyone under 18 (previously the age limit was 16 years of age).

### **Minimum age below which children shall be presumed not to have the capacity to infringe the penal law**

248. Paragraphs 29 to 31 of the *Initial Report* set out the age of criminal liability in New Zealand. New Zealanders have debated whether the age limits for prosecution of criminal offences should be lowered. However, there has been no law change and minimum ages have remained the same throughout the reporting period. (See paragraphs 39-43.)

### **Ages in employment**

249. No new age limits for the employment of young people have been implemented. The Department of Labour worked with the Ministry of Youth Affairs to consider new age limits as part of the youth minimum wage review. Specifically they considered lowering the age of the adult minimum wage rate from 20 years to 18 years of age. Government has not yet made decisions on the youth minimum wage review.

250. The focus in employment legislation is on providing protections for all employees. Employment legislation does not provide any specific definition of a child (young people have the same employment rights as other employees). There are, however, age limits for types of employment prescribed in the Education Act 1989 requiring that children under 16 cannot be employed during school hours. There are also minimum wage rates specified (see paragraph 924) for those young people aged between 16 and 19 years, employed outside of school hours.

### **Access to youth units in prisons**

251. As submissions pointed out, the age ranges for the Specialist Youth Units for young male offenders do not conform to the definition of a child under the Convention. Only young men aged under 17 years are automatically placed in youth units. However, those aged 17 years and older are placed in youth units if vulnerable in adult prisons. (See paragraph 908.)

### **Consistency in age limits**

252. The lack of consistency in age limits affecting children creates confusion and concerns children and young people. The Ministry of Youth Affairs' booklet *Does Your Policy Need An Age Limit? A Guide to Youth Ages from the Ministry of Youth Affairs* (see paragraph 46) encourages policy makers to avoid discrimination and develop a consistent approach to the treatment of young people, and respect for their active participation in society. It provides information about the Convention and guidelines for its use in determining whether an age limit is necessary and, if so, what that age limit should be. (A copy of the booklet is attached as Annex 2.)

### **Changes to Minimum Drinking Age and Juries Act**

253. Two areas in which the law has changed to reflect the definition of a child as someone under 18 years of age are changes to the minimum drinking age and the age at which it possible to serve on a jury. Both developments are in areas traditionally regarded as markers of adulthood so, by implication, they reflect a growing acceptance that, in line with the Convention, children under the age of 18 are entitled to special protection.

254. Amendments to the Sale of Liquor Act in 1999 lowered the minimum legal drinking age from 20 years to 18 years. People under 18 years may be given liquor on licensed premises, other than restricted areas, but only by a parent or guardian accompanying them. The Sale of Liquor Act 1989 regulates the sale and supply of liquor from licensed premises. Consumption of alcohol by minors in private homes is not regulated by law. To assist in implementing this law change, an evidence of age document for minors has also been introduced, such as a driver's licence or a New Zealand or overseas passport. The documents are not mandatory, but are likely to be requested by liquor suppliers to ensure that they are not selling alcohol to underage youths or permitting minors to be in restricted or supervised areas of licensed premises. There is no restriction on the age of the seller of liquor except those who sell and supply liquor in restricted areas of licensed premises.

255. The Police support the recent amendments to the Sale of Liquor Act because enforcement has been made easier. There is now greater clarity in the law. Evidence of age cards are seen as facilitating identification and enforcement. The onus is on the licensees to check ages, and large penalties are in place for licensees who default. Infringement notices for minor offending make enforcement easier and more streamlined. They also result in a lesser penalty.

256. The Ministry of Health and the Alcohol Advisory Council are concerned that lowering the legal drinking age and the increased availability of alcohol to young people has resulted in alcohol related harm. Studies indicate that, since the law change, fewer young people are electing not to drink, and that more of those that do are engaging in binge-style drinking.

257. In response to these trends, government agencies have convened two Youth and Alcohol Summits to develop strategies to address youth drinking, and further research is being conducted to establish whether lowering the legal drinking age to 18 has led to lowering the “effective” drinking age to 17, 16 or younger.

258. The Juries Amendment Act reduced the lower age limit to participate in juries from 20 to 18 years, effective from 30 July 2000.

## PART 3: GENERAL PRINCIPLES

### Introduction

259. Part 3 reports on how the general principles of UNCROC apply in New Zealand. They are:

- non-discrimination
- best interests of the child
- the right to life, survival and development
- respect for the views of the child.

260. There are measures in place to protect children's rights in these areas such as the Human Rights Act 1992 (which protects children from discrimination), the Guardianship Act 1968 and the Children, Young Persons and Their Families Act 1989 (which both have a best interests principle). The steps being taken to prevent the leading causes of mortality amongst children (Sudden Infant Death Syndrome, youth suicide and motor vehicle crashes) are also noted, as is the increasing recognition of a child's right to have a say in matters that affect them, and to have their views respected.

261. Nevertheless public submissions suggest that New Zealand needs to do more to respect these general principles, which are central to effective implementation of the Convention as a whole.

#### A. Non-discrimination (article 2)

262. The legal framework to protect from discrimination has not changed during the reporting period (see paragraphs 32 to 34 of the *Initial Report*). However, as noted in paragraphs 113-122, in the light of the *Consistency 2000* project, New Zealand has reviewed the Human Rights Act 1993.

263. Complaints about unlawful discrimination on the basis of age may be made to the Human Rights Commission and a number have been made, including complaints from senior citizens.

264. Submissions suggested that the extent to which children and young people face discrimination is not really known since these complaints are rarely made to the Human Rights Commission. A submission from a group of young people suggested that there was discrimination in schools and that teachers were too busy to deal with it. It was felt by others (adults) that very little is known about the extent of discrimination.

265. Submissions made it clear that, in a more general way, children and young people do face discrimination. For example, they may be banned or not welcome in certain areas because they are seen as noisy and disruptive. They may be targeted by Police to a greater degree and by shop

owners who are more likely to see young people as potential shoplifters than adults. It was also suggested that Maori have a particularly difficult time and are “picked on” by teachers, Police and other young people.

### **Age discrimination**

266. Under section 21(i)(i) of the Human Rights Act 1993 the definition of the “age” ground of discrimination does not include people under 16 years. Nevertheless, they are not excluded from all provisions of the Human Rights Act 1993. For example, subject to the generally applicable exclusions of the Act, children may not be discriminated against by reason of their sex, race or family status.

267. Submissions showed concern that people under 16 years old are not included in the age discrimination provisions of the Human Rights Act and can be discriminated against simply because they are children.

268. Before the lower age limit in the Human Rights Act 1993 could be removed or adjusted, substantial work needs to be done to carefully evaluate the implications of the change and identify whether any new, corresponding exemptions would also be required.

269. Human rights protections in New Zealand are currently being re-evaluated (see paragraphs 54 and 122) and the definitions of the prohibited grounds of discrimination may be re-examined. However, it is not expected that a review of the lower age of 16 years will take place in the near future.

### **Discrimination against children with disabilities**

270. Discrimination against children with a disability is an issue for New Zealand and was an area of great concern in submissions. Generally, the view was expressed that parents and families with a child with a disability have a particularly hard time. The Human Rights Commission confirms this, reporting that it is one of the major issues raised with them.

271. The Human Rights Act 1993 offers legal protection against discrimination on the basis of disability and the Human Rights Commission is frequently contacted by parents of children with special needs who believe that their children’s human rights have been breached. Many of these complaints or inquiries relate to discriminatory enrolment refusal, students with disabilities not being catered for at schools, or students being excluded from schools for reasons which directly or indirectly relate to their disabilities.

272. The definition of disability according to the Human Rights Act 1993 is quite broad and includes:

- physical, intellectual or psychological disability or impairment
- physical or psychiatric illness



- any loss or abnormality of psychological, physiological, or anatomical structure or function
- reliance on a guide dog, wheel chair or other remedial means
- the presence in the body of organisms capable of causing illness.

273. Different government agencies funding services for people with disabilities may have slightly different (often narrower) definitions of disability on which they base access and eligibility criteria. The Ministry of Health's definition to determine who is eligible for government funded Disability Support Services is:

“A person with a disability is a person who has been identified as having a physical, psychiatric, intellectual, sensory or age-related disability (or a combination of these) which is likely to continue for a minimum of six months and result in a reduction of independent functioning to the extent that ongoing support is required.”

274. The Ministry of Health acknowledges that its definition can cause problems for some children and their parents, and it has plans to review it.

275. (Information about the services and support available to children with disabilities is contained in paragraphs 553-561 and paragraphs 707-719.)

### **Other discrimination issues**

276. Other examples submissions cited include:

- The Yellow Triangle scheme introduced by Police in Christchurch in an attempt to cut down car thefts. Car owners who elect to take part in the Yellow Triangle Scheme stick yellow triangles on their car if people under the age of 25 are not supposed to be driving it. The Police will automatically stop a car with a yellow sticker if someone who appears to be under 25 years is driving it. Opponents are concerned that it discriminates against young people. The Police believe that the yellow sticker scheme does not discriminate against young people and that it is a useful crime prevention tool.
- Fingerprinting of children. (Information about the issues of fingerprinting children and young persons is provided in paragraph 869.)

### **Sexual harassment**

277. In 1996 the Human Rights Commission developed a resource *Preventing Sexual Harassment in Schools* after schools requested assistance in developing a learning environment free from sexual harassment. The resource combines the knowledge, expertise, and practical experience of teachers, school guidance counsellors and students who have been involved in developing and implementing sexual harassment policies and procedures within their own schools.

### **B. Best interests of the child (article 3)**

278. New Zealand continues to affirm the principle of the best interests of the child. However, submissions raised concern that the “best interests of the child” concept is not driving policy. It is anticipated that developing the Children’s Policy and Research Agenda will help to address this (see paragraphs 35-37 and 143-150).

279. Under the Guardianship Act 1968 the welfare of the child must always be the first and paramount consideration in guardianship, custody and access matters. However, while the Act clearly states that the welfare of the child must be the first and paramount consideration, much of the Act focuses on the custody and access rights of the parents. The current law relating to custody, access and guardianship is under review and will consider whether there should be a greater emphasis on children’s rights (rather than the rights of parents) to advance children’s welfare or best interests. The discussion paper Responsibilities for Children: especially when parents part expressly asks whether more can be done to comply with the Convention’s principles in this area (see paragraphs 417-418).

280. Under the Children, Young Persons and Their Families Act 1989, the welfare and interests of the child or young person are the first and paramount consideration, regarding principles set out in sections 5 and 13 of the Act.

281. The Adoption Act 1955 does not contain a paramountcy provision. This Act is also currently under review and it is likely that the review will consider this issue.

282. The principle of the “best interests of the child” has influenced Department for Courts’ work on:

- the role of Counsel for the Child (see paragraphs 331-332)
- the supervised access protocol and Practice Note (see paragraph 536)
- the development of the joint protocol with the Department of Child, Youth and Family Services and Practice Note (see paragraphs 537-538).

283. During 2000 the Ministry of Social Policy’s research project An investigation into understandings of “good outcomes” for children in New Zealand investigated how the concept of “good childhood outcomes” was understood by families who are raising children and by workers who provide assistance to families. It recorded the views of parents and caregivers, their children and agency workers/providers. Particular attention was paid to differences between Pakeha, Maori and Pacific families and providers.

### **C. The right to life, survival and development (article 6)**

(Please also refer to paragraphs 486-489 and 562-578)

284. New Zealand continues to affirm the right to life as a civil and political right of children. There have been a number of judicial cases affirming this right, particularly in relation to providing medical treatment.

285. In relation to survival and development, mortality rates for children are highest in the first year of life. The total infant death rate has continued to decline (from 7.2 per 1,000 live births in 1994, to 5.7 per 1,000 live births in 1998). Although the Māori infant mortality rate declined more rapidly over the past half century, it remains significantly higher than non-Māori, a difference mainly attributable to a higher incidence of Sudden Infant Death Syndrome (SIDS). By 1998 the Māori rate was 9.5 per 1,000 live births. For Pacific infants, the mortality rate was consistently lower than the European/Other rate until the mid-1980s, but since then it has been higher on average. In 1996 it was estimated at 7.3 per 1,000 live births. It should be noted, however, that the Pacific peoples rate shows wide fluctuations from year to year because of the small numbers in both the numerator and the denominator.

286. SIDS is the leading cause of death for both Maori and non-Maori children under one year. However, the Maori rate for SIDS has been consistently higher than non-Maori at least over the last decade, and decreased only 12.7 percent over the period 1985 to 1994, compared to a 62.2 percent decrease for the non-Maori population. Rates tend to fluctuate over the years because of the small numbers involved, but a Ministry of Health analysis of infant deaths showed that the Maori SIDS rate (6.9 per 1000) was five times higher than the non-Maori rate (1.4 per 1000).

287. For children over one year of age, motor vehicles are the leading cause of death. (See paragraphs 645-648.) During the reporting period a number of public education campaigns have aimed to raise awareness about the use of car seats for children, seatbelts and road safety, particularly among young drivers. The need for ongoing education and awareness raising about infant mortality and road safety is a key issue. Reduction in mortality rates is the primary focus.

288. New initiatives aimed at decreasing disparities in child health outcomes (see below) are expected to have a positive impact on the health of tamariki Maori, Pacific peoples and other children at risk of poor health outcomes because of social and economic disadvantage.

289. The government is addressing the need for education and raising awareness about child survival and development in a number of ways. In 1998 the Ministries of Health and Education and the then Department of Social Welfare introduced the Family Start Programme for parents with new born babies (see paragraphs 402-404). Increased assistance, especially home visits for mothers with young babies, is a particular priority (see paragraph 617).

### **Youth suicide**

290. The New Zealand youth suicide rate is now amongst the highest in the OECD (OECD 1999). Care should be taken in interpreting international comparisons of suicide rates, as the accuracy and completeness of recording suicide on death certificates varies across cultures, depending on the social stigmatisation and legal implications associated with suicide in

different societies. Nevertheless, it is clear that in New Zealand young people (15 to 24 years) are over represented in suicide statistics compared with all other age groups. Youth suicides represented 25 percent of total suicides in 1997, despite youth aged 15 to 24 making up only 14 percent of the population.

291. Although the numbers of suicide deaths for all young people under 18 years are relatively small, there was a significant increase between 1995 and 1996 (from 28 to 43) and a drop to 38 in 1997. The number of suicides for young people under 15 years increased to 13 in 1998 (nine Maori), up from eight in 1997 (four Maori) and seven in 1996 (four Maori). Although still small in actual numbers, this increase concerns the government.

292. The male youth suicide rate has always been much higher than the female rate and was 3.8 times higher in 1997. The rate for males almost doubled from 1985 to 1989, but in the following eight years increased only a further eight percent. In contrast to the trend in young men, suicide rates for young women held steady in the late 1980s and even declined a little during the early 1990s, but then the rate doubled from 1993 to 1996. For females, the highest number of deaths both in 1997 and 1998 was in the 15 to 19 year age group.

293. The New Zealand Youth Suicide Prevention Strategy was released in March 1998 to provide a framework to understand what suicide prevention is and the steps government agencies, communities, service providers, Maori whanau, hapu and iwi must take to reduce suicide. The strategy has two components:

- *In Our Hands* (Annex 5) is the general population strategy
- *Kia Piki Te Ora o te Taitamariki* (Annex 5) specifically supports Maori efforts to reduce suicide among rangatahi Maori.

294. *In Our Hands* aims to reduce suicide for all youth. It is based on the known risk and protective factors for suicide and outlines the optimal points for intervention to interrupt the various pathways to suicide. This approach involves promoting:

- well being
- early intervention
- support and treatment
- post-vention support
- research and information.

295. *Kia Piki te Ora o te Taitamariki* is specifically designed from a Maori cultural development framework. It recognises that whānau, hapū and iwi are the basis of Maori society and reflects a strong community development approach to promote resiliency factors such as cultural identity and belonging.

296. These approaches were based on evidence from New Zealand and international research and best practice. There is also a growing body of research into suicide in New Zealand that continues to guide prevention responses. For example:

- the government is currently funding (via the Health Research Council) five research projects on suicide
- government agencies maintain a close eye on international developments in research and best practice
- New Zealand is a member country of the World Health Organisation Worldwide Initiative on Suicide Prevention (SUPRE) and the International Association of Suicide Prevention (IASP).

297. The Ministry of Health has the leadership role for promoting, co-ordinating and communicating the Strategy's implementation. A Ministerial and Inter-Agency Committee have also been formed to oversee the government-level implementation of the Strategy.

298. A work programme for government agencies was agreed in May 1999. The first two years of implementation have a strong focus on providing information and best practice guidance to ensure that those people who have contact with "at risk" young people and those who are suicidal, can identify and respond appropriately to them. Examples of new resources developed under the work programme include:

- *Guidelines for Primary Care Providers: Detection and Management of Young People at Risk of Suicide* (Annex 27), published by the Royal New Zealand College of General Practitioners and funded by the Ministry of Youth Affairs and Health Funding Authority
- *Guidelines for Schools on the Prevention, Recognition and Management of Young People at Risk of Suicide* (Annex 28), published by the Ministry of Education and the National Health Committee
- *Towards well-being. Te Kahu o Te Aorangi* (Annex 29), guidelines for Department of Child, Youth and Family social workers.

299. Possible future priorities are being considered, including:

- working more closely with communities to encourage and support local responses to the prevention of suicide
- ensuring all existing and proposed suicide prevention initiatives are appropriate and responsive to the needs of Maori
- making sure that the development of guidelines and best practice resources are followed up by ongoing training, implementation and evaluation.

300. The Ministry of Youth Affairs funds Suicide Prevention Information New Zealand (SPINZ) which is a national service that collects, manages and disseminates advice and information to the community on youth suicide and youth suicide prevention. Child, Youth and Family Service's key response to the Youth Suicide Prevention Strategy is the Youth Services Strategy (see paragraphs 877-879) which includes a practice model. The practice model comprises a number of tools to identify and assess the risk levels of young people aged 14 to 16 years, including the risk of suicide. Once risk is assessed, the strategy enables appropriate specialist care and programmes to be provided. Additionally, the Police are reviewing their procedures for managing suicides in police cells. These revised procedures will specifically include information on the managing young people and Maori.

301. The Government is currently reassessing the youth suicide prevention work programme.

#### **D. Respect for the views of the child (article 12)**

302. Recognition of children's rights to participate in decisions that affect them has increased. There seems to be general acceptance that participation by children is good for them and society as a whole. Best practice issues and how to ensure participation is meaningful for children are now being considered. For example, submissions suggested that best practice guidelines on consulting with children would be a useful resource. The Ministry of Youth Affairs is working in this area which is also included within the terms of reference for the Children's Policy Reference Group and is a key element in the Children's Policy and Research Agenda.

#### **Encouraging Participation by Children**

##### **Prime Minister's Youth Advisory Forum**

303. The Prime Minister's Youth Advisory Forum was established in 1998. Modelled on other advisory forums, such as the Business Advisory Council, the Prime Minister's Youth Advisory Forum aims to provide 15 young New Zealanders, aged between 12 and 25, with the opportunity to meet three times a year with Cabinet Ministers, including the Prime Minister.

304. The Forum was initiated by the Minister of Youth Affairs and received an enthusiastic response with more than 230 young people applying to be members. The selection criteria aimed to establish a Forum with a cross-section of young people from different ethnic groups, a variety of geographical, rural and urban backgrounds, and with different educational, employment and life experiences.

305. The Forum's aim is to provide a system where a group of children and young people can speak directly and frankly to the Prime Minister of the day about issues that concern them. Members' views can be sought on all matters concerning the government, not just issues considered to be relevant to children and young people. During the Forum members identify the issues for discussion and the Ministers they will meet for the next meeting. Ministers can also set topics for discussion.

306. Issues discussed so far include student loans, bullying in schools, drugs and alcohol, the treatment of young people by Police, and strengthening families.

307. As the Forum evolves it will need to develop its own policies and procedures so that it can become a valued and respected institution that continues to exist irrespective of its changing membership or changes in Government. The Government is currently reviewing the role and functions of the Forum.

### **Youth Parliament**

308. Another example of children's voices in public life is the Youth Parliament that is held every three years.

309. A young person is chosen by each Member of the House to take their place in Parliament. Selection methods vary, with some representatives being voted in by their peers in a particular region or school, and others being selected by the relevant Member of Parliament, frequently through skill-based competitions such as speech or essay writing.

310. The first Youth Parliament was held for one day in 1994. The second and third were held over two days and included a Youth Press Gallery.

311. At each session of the Youth Parliament a mock Bill is debated (the first was on lowering the drinking age, the second on parity between student allowances and the unemployment benefit and the third on the partial decriminalisation of cannabis for personal use). Alternatively, Youth Ministers can take part in the general debate, speaking on an issue of their choice. Copies of the official record of the parliamentary debates (Hansard) for the 1977 and 2000 Youth Parliaments are attached (Annex 30 and 31).

312. The programme for each day follows the usual parliamentary timetable as closely as possible. Youth Ministers sit as members of select committees to hear reports from ministries and departments, and conduct inquiries. There is a question time held in the House of Representatives with the "real" Ministers of the Crown answering questions from the Youth Ministers. The debates and questions are presided over by the Speaker of the House and published in Hansard and broadcast live on National Radio.

313. In addition to being a training exercise in parliamentary procedures, Youth Parliament provides young people with an opportunity to express their views on issues of their choice. Because their views are recorded they can be a helpful resource for policy development. For example, Youth Affairs used the issues raised in the 1994 Youth Parliament debate on lowering the drinking age in its submission to the Liquor Review Advisory Committee in 1997.

### **Voice of children in social services**

314. Child, Youth and Family and the Ministry of Social Policy have developed a research agenda that includes children and young people's direct experience with social services. Items include:

- evaluating the Youth Services Strategy (see paragraphs 877-878)
- Outcomes of Care and Protection Family Group Conferences (including an Out of Family Care Environmental Scan)
- Outcomes of Youth Justice Family Group Conferences
- evaluating Barnados Models of Care Demonstration Project
- evaluating Social Workers in Schools Strategy (see paragraphs 804-806)
- evaluating Wraparound Service Strategy (see paragraphs 405-409)
- evaluating Programmes for Maori Youth at Risk.

315. Under the Grant in Aid Programme for Postgraduate research (administered by the Ministry of Social Policy and Child, Youth and Family), there have been specific grants made to projects focussed on ensuring children's voices are heard. The list includes nine research and publication items directly relevant to delivering social services to children and young people.

### **International Human Rights**

316. The New Zealand delegation to the 18th Session of the Working Group on Indigenous Populations included two indigenous (Maori) youth representatives, one was a high school student (under 18 years), the other a university student.

### **Local Councils**

317. Government acknowledges the work by several local councils to listen and promote children's participation in decision-making. For example, the Christchurch City Council demonstrated its commitment to listening to what children have to say and incorporating their views. Its Children's Policy states the council's commitment "to promoting the healthy, happy development of children to their full potential, both as children now and for the future well-being of our community".

318. The Council also has a Youth Policy that incorporates an explicit outcome: "The views of young people are sought and taken into account in the development of the Council's policies and activities".



319. To implement these policies, the Council adopted a Strategy for Children which uses the key messages “every policy affects children” and “every adult an advocate for children”.

320. Several other Councils around the country have also developed child and youth policies, appointed child and youth advocates and supported youth councils.

### **Youth Affairs Student Representatives in Schools Scheme**

321. Each year the Ministry of Youth Affairs invites all the schools in New Zealand with students over the age of 11 years to appoint a Youth Affairs Student Representative.

322. The purpose of the scheme is to:

- provide information to young people about issues which affect them
- encourage young people to be involved in decision-making
- increase young people’s contact with and understanding of the role and work of the Ministry and Minister of Youth Affairs
- provide opportunities for school, community and government decision-makers to hear the views of young people.

323. The key role of a Youth Affairs Student Representative is to:

- act as a link between the Minister and Ministry of Youth Affairs, and their school
- share information provided by the Minister and Ministry of Youth Affairs with other students at their school.

324. Each Student Representative is appointed for a year and is asked to do a variety of tasks including:

- receive, distribute and display information
- survey student opinion on various topics and inform Youth Affairs
- advise Youth Affairs on issues that concern them or other students.

325. This scheme gives Youth Affairs an opportunity to communicate directly with young people and through them, with their peers. It provides another opportunity for young people to learn leadership skills and moves some control of what information young people receive in school from the teachers to the students.

### **Consent in child health**

326. A number of measures have been taken to improve best practice in the delivery of health services and to enhance respect for children's views. In 1999, the Ministry of Health published *Consent in Child and Youth Health: Information for Practitioners* (Annex 32) which combined a range of legislation relevant to consent in child and youth health care and provided advice about best practice.

### **Children's views in schools**

327. Several comments were made in submissions about children's participation at school. It was felt that schools should be more responsive to their student's views on how schools should be run. Some people believed that there needed to be two student representatives on school boards of trustees so that they can support each other and be more effective. Another suggestion was that children at primary and intermediate level also need a voice on the school board perhaps through an adult advocate.

328. School students now have a statutory right to speak at board meetings to consider their suspension from school. Before amendments to the Education Act in 1998 (Annex 33) this right to speak was not recognised in statute and students had to rely on board of trustee members being familiar with and applying the principles of natural justice (see paragraphs 807-815).

329. The Education Amendment Act 2000 (Annex 34) requires all schools with students in form three (Year 9) and above to have a student-elected trustee. The Act also allowed boards of trustees to co-opt additional trustees, who may be students of the school. (Previously student representatives were optional and an age restriction effectively prevented more than a single student trustee.) This amendment has the potential to increase the number of student representatives on the board. A student representative on primary schools has not been considered, nor has consideration been given to creating a special representative who would have particular responsibility to consult students and forward their views to the board. As meetings of school boards are open and public, there is nothing to prevent any student (or person who wishes to speak on their behalf) writing to a board, or appearing in person, and presenting their views.

### **Sexuality education**

330. Boards of trustees can veto the inclusion of aspects of "sex" education from a classroom programme and parents and caregivers are able to withdraw their young people from specific classes. However, young people are able to access information about issues such as contraception from outside the classroom situation, or from agencies beyond the school.

331. Discussion is currently taking place to ensure that the views of young people are taken into consideration during the consultation process, and consideration is being given to whether boards of trustees should continue to have a veto over sexuality education.

332. Sexuality education provides opportunities to develop knowledge, understanding and skills to enhance relationships, for example in relation to love, families and parenting. It also helps young people develop positive attitudes towards sexuality and take care of their sexual well-being.

### **Children's views in the legal system**

333. The Department for Courts has a number of projects relating to representing children in the Family Court. Following a request from the Principal Family Court Judge in 1997, it commissioned research on current practice and the views and perceptions of practitioners about the representation of children in the Family Court. The research was based on interviews with 20 children and young people between the ages of eight and 15 years. After this research and accompanying policy work, the Department began implementing changes in the administration of appointing Counsel for the Child. It is also considering the representation of children in proceedings that settle by consent.

334. Children had several suggestions for lawyers on how lawyers could better assist children, such as:

- talking less and listening more
- relating to children on their level
- getting to know children and their background
- being happy and cheerful
- relating to children as people.

335. The children surveyed also had suggestions to other children (which could be used to develop resources for children in this area), including:

- choose a good lawyer
- speak up for themselves, even if they weren't asked
- not to feel bullied or scared
- not to worry.

336. A number of these are covered in the best practice guidelines recently issued by the New Zealand Law Society (Annex 35) in response to the Department's project.

337. The guidelines' principles include:

- children have the right to be given the opportunity to be heard in any judicial and administrative proceedings affecting them in line with the UN Convention on the Rights of the Child
- child clients have the right to be treated with the same respect as clients who are adults
- children have the right to information about the case in which they are involved including information on the progress and outcome of the case
- children have the right to the highest quality representation from experienced and skilled practitioners.

338. The guidelines set out specific expectations for matters such as the relationship and contact with the child, debriefing, confidentiality, ending the relationship, relationship with the parties and their counsel, liaison with specialist report writers and professional conduct.

339. As a part of the review of the Guardianship Act 1968 (see paragraphs 417-418) the Ministry of Justice has distributed its discussion paper to organisations which work with children to obtain information about children's views in respect of the laws of guardianship, custody and access.

340. The Department for Courts will undertake to work with the Judiciary and the New Zealand Law Society to progress ways in which Family Court counsel can effectively and sensitively represent clients from different cultural and socio-economic groups.

341. (Information about children's participation in their families when a parent is in prison is contained in paragraphs 433-444.)

### **Views of young people in youth units**

342. The Department of Corrections consulted with young offenders using focus groups (in consultation with the Ministry of Youth Affairs) in developing youth units. The main purpose was to gain a perspective on what kinds of services and facilities youth offenders thought would be most suitable.

### **Views of young people at work**

343. Consultation by the Department of Labour's Occupational Safety and Health Service included a focus group with young workers. It aimed to identify what strategies are most appropriate to inform young and new workers about health and safety in the workplace and of their rights and responsibilities under the Health and Safety in Employment Act 1992.

344. The views of young people regarding their employment experiences are currently being addressed through the re-evaluation of the Employment Relations Service (ERS) information strategy (see paragraph 928). Regarding issues raised about informing parents of situations of youth employment, the ERS believe that this is a technical issue of privacy law and is not specifically related to the services delivered to youth by the ERS.

### **Children's voice in the Convention report**

345. The government sought children's views relevant to this report and is working with the non-government sector to facilitate children's ongoing involvement in the reporting process.

346. Although only a relatively small number of children were involved, efforts were made to include Māori and Pacific children, children with disabilities, children in difficult circumstances and children living in rural and urban areas. Different NGOs were contacted and asked if they had young people who would be interested in participating. The groups were sent an information kit (see paragraphs 8-9) which included starter questions to spark young people's thoughts. A disposable camera was included with the information and the children were asked to take pictures to reflect their life in New Zealand.

347. A bookmark containing information about UNCROC and some starter questions was also sent to approximately 750 Ministry of Youth Affairs Student Representatives in schools.

348. The information and comments received from children and young people is collated into a "snapshot" of life for New Zealand children (see Annex 36). Issues raised can be followed up through the non-government reporting process, in a child and youth report and in the policy work that flows from this report.

## **PART 4: CIVIL RIGHTS AND FREEDOMS**

### **Introduction**

349. The general framework to protect children's and young people's civil rights and freedoms remains.

350. Submissions from young people and others speaking on their behalf raised a number of issues, including:

- protection from physical abuse that leads to death
- the inability of young people to easily access their lawyers, especially when held in institutions
- fingerprinting children and young persons
- young people's difficulty in reporting bad experiences with Police, including beatings
- responses to complaints in residential care including timeliness of response
- young people held in police cells or held on remand in adult prisons owing to insufficient placement options
- access to sex education
- access to drug and alcohol information and treatment services.

#### **A. Name and nationality (article 7)**

351. The Law Commission has completed its review of adoption law. This considered (among other matters):

- should the scope of the Adult Adoption Information Act be expanded to cover a wider range of people?
- at what stage should an adopted child be entitled to information about their identity?
- are the current procedures under the Adult Adoption Information Act still appropriate?

(See paragraphs 471-472.)

352. The Law Commission presented its final report to Government in September 2000 and it has been referred to a select committee.

## **B. Preservation of identity (article 8)**

353. One important aspect of preserving identity and ensuring children know their parents (article 7) is the ability to clearly determine identity and information about genetic origins. Two Assisted Human Reproduction Bills are currently before the Health Select Committee. Both Bills provide for children born from assisted human reproductive procedures (using donated gametes) to have access to information about their genetic origins. The Bills' information schemes have the following key features/requirements:

- gamete donors and people who receive assisted human reproductive services would be told (as a precondition to donation and the receipt of services) that information would be collected and retained so that children born (as a result of donated materials, "donor children") would have access to their genetic origin
- assisted human reproductive service providers (providers) would collect certain information from donors and about donor children and retain this information for a set period of time (unless their business ceased to continue)
- when a donor child is born, providers forward specified core information to the Registrar-General of Births, Deaths and Marriages to be held indefinitely and accessed via a central register
- when the donor child turns 18 years, they would be entitled to access the identifying donor information held by providers and the Registrar-General
- donors would be entitled to find out if a donation resulted in a birth, but they would not have access to identifying information about a donor child until the child turns 25 (unless the child expressly consents to donor access after turning 18 years of age)
- donor children and donors would have access to non-identifying information about each other prior to the donor child turning 18 years
- the Privacy Commissioner would have jurisdiction to deal with complaints relating to matters such as denial of access or wrongful disclosure of personal information.

### **Review of Adoption Law**

354. New Zealand's adoption law about children's rights to retain and preserve their identity is currently being reviewed. A report was published by the Law Commission at the end of September 2000. The issue is now being reviewed by select committee which will (among other things) allow the public to make oral and written submissions on the proposals before the committee.

355. Public consultation is required for any review of existing law or consideration of new policy and legislative developments. Additionally, there are particular issues that require consultation with Maori, particularly in relation to cultural values and the importance of whakapapa. Involving children and young people in these developments are key issues.

356. Whakapapa is the thread that binds a Maori person to everyone and everything else in the world. It determines relationships as well as the manner in which those relationships are exercised. Whakapapa is a social control mechanism that establishes rights and responsibilities in the physical, spiritual and psychological world of the Maori. Land is a physical manifestation of whakapapa. Existence and connection to it is an express acknowledgement of Maori identity.

357. In traditional Maori society, all members of the community were expected to know who their tipuna (ancestors) were. They were also expected to share this information with their children. Whakapapa is important because a young Maori person develops a sense of belonging in gathering this knowledge. Today, the importance of whakapapa has developed a sense of urgency. Loss of language and breakdown of social structures has contributed to the loss of identity that many young Maori feel.

358. The reality for many is that the whanau is not the pivotal point in a young person's life. Thus, the links between the young person, family and community are weakened and the opportunity to gain access to cultural information, support and experiences is being lost. The effects of not knowing have resulted in a generation of young Maori who find it difficult to establish their identity.

359. Contemporary Maori live in a range of social, economic and cultural realities. The term whānau has been defined as a unit who shares a common ancestor, and maintains within it certain responsibilities and obligations. In modern Maori society, the term whānau has been applied to a number of family configurations, including nuclear families, single parents and reconstituted families. Nevertheless, whakapapa (genealogy) remains the core.

360. Family Law in New Zealand reflects mainly the values, principles and ideology of contemporary western society. Maori cultural practices in regard to family forms are generally ignored.

361. The Adoption Act 1955 sets out the rights and responsibilities of past and existing parents in adoption situations. In essence the Act allows new parents to be substituted for the child's existing parents. Section 9 of the Adoption Act 1955 overtly rejects Maori customary practices by declaring that "... no adoption in accordance with Maori custom shall be of any force or effect ...".

362. Traditional concepts of whanau are founded upon a set of principles that include manaakitanga (caring), tatou tatou (collective responsibility) and mana tiaki (guardianship). The Adoption Act 1955 and Guardianship Act 1968 both fail to acknowledge these principles. They also fail to take account of the Maori understanding that responsibility for children lies not only with parents or legal guardians but also with the wider whānau. In this respect, tikanga Maori in relation to the family, whanau, hapu and iwi are not recognised by the legal process.



363. The review of adoption law will have regard to the unique character of New Zealand society, including the particular cultural values and needs of Maori and other cultures in New Zealand. The terms of reference of both the Law Commission and the select committee review recognise the need to investigate the distinctive cultural practices of Maori in the area of adoption.

(See paragraphs 471-474.)

### **Surrogacy**

364. There have been some changes in the area of surrogacy since the *Initial Report* (see paragraph 109). In July 1997 the National Ethics Committee on Assisted Human Reproduction (NECAHR) made an “in-principle” decision to approve non-commercial surrogacy using invitro fertilization (IVF) provided certain conditions were met. Despite this approval, every individual application must be considered by NECAHR. It has also issued guidelines to providers on the criteria to consider in particular cases (a copy of the latest draft dated April 2000 is attached as Annex 37).

365. NECAHR has received 16 applications for non-commercial surrogacy using IVF, six have been approved and some are still being considered. There have been no reported pregnancies to date.

366. The NECAHR will be put on a statutory basis in the Assisted Human Reproduction Bill that is currently before the Health Select Committee. The Bill contains a number of provisions dealing with NECAHR’s appointment, function and procedures. These provisions include a requirement for the committee to review assisted human reproductive proposals to determine whether they are ethical, and in particular, whether the rights of the people involved will be protected. The review will also look at whether proper account will be taken of the ethical perspectives of Māori, and other cultural, ethnic, religious and social groups in New Zealand.

### **C. Freedom of expression (article 13)**

367. The legal framework for protecting the right to freedom of expression has not changed. However, technological developments have expanded the opportunities for children and young people to express themselves. Schools are enhancing children’s and young people’s skills and confidence with these new technologies. In addition, many New Zealand households have a personal computer and access to the internet.

368. New technologies are increasing the need for adequate protection of children and a balancing the rights of children and adults to freely express themselves. A key issue is the question of how to best regulate, if at all. Information on an internet safety kit is contained in paragraph 982.

369. Government is currently considering options to ensure broadcasting policy and radio stations actively support children and young people’s participation. A forum of key groups in the industry and a cross-section of young people was hosted by the Minister of Broadcasting to canvas options to improve children and young people’s involvement in this industry.

#### **D. Freedom of thought, conscience and religion (article 14)**

370. The right to freedom of thought, conscience, religion and belief (including the right to hold and adopt opinions without interference) is guaranteed to everyone under section 13 of the New Zealand Bill of Rights Act 1990 (see paragraphs 87 to 88 of the *Initial Report*). Parents may guide their children in exercising their freedoms.

371. The Human Rights Act 1993 continues to prohibit discrimination on the grounds of (amongst other things) religion, ethical belief or political opinion.

#### **E. Freedom of association and of peaceful assembly (article 15)**

372. In 1996 and 1997 there was concern for young people congregating at night in public spaces, and some local councils imposed (or attempted to impose) curfews. Police and the Ministry of Youth Affairs responded by co-facilitating a workshop of key agencies to consider the issues and develop guidelines to assist Police implement constructive and effective strategies directed at young people who may be at risk. Issues were raised about whether or not:

- curfews are an infringement of young people's rights
- the Children, Young Persons and Their Families Act 1989 is being appropriately used
- curfews breach the New Zealand Bill of Rights Act 1990
- curfews breach the Convention.

373. Guidelines were developed to help Police deal effectively with young people "at risk" or offending at night. These guidelines make it clear that "curfews" or "blanket sweeps" are illegal and recommended that they not be instituted (a copy of these guidelines is attached Annex 38).

#### **F. Protection of privacy (article 16)**

374. The Privacy Act forms the basis for protecting children and young people's privacy (see paragraphs 91 to 94 of the *Initial Report*). In December 1998 the Privacy Commissioner reported to the Minister of Justice on its review of the operation of the Privacy Act 1993. The Commissioner recommended a number of changes to the Act, aimed at making the Act more effective and understandable, but overall concluded that the Act is firmly "on the right track". Other work priorities and pressures mean the Government to date has not been able to progress these recommendations significantly.

375. In 1994 the Privacy Commissioner issued the Health Information Privacy Code which substitutes the Privacy Act in respect of health information. Rule 11 of the Code places restrictions on disclosing health information. Health information may only be disclosed in limited circumstances, including where the health agency holding the information believes, on reasonable grounds, that the disclosure is:

- to the individual's representative (their parent or guardian in the case of a child) where the individual is "unable to exercise his or her rights" under the code
- authorised
- in general terms only, when the patient is in hospital and has not otherwise expressly requested non-disclosure of such information.

376. It is unlikely that a patient who is under 16 years will automatically be found to be "unable to exercise his or her rights" under the code. Thus, it is unlikely that parents or guardians of child-patients will automatically have access to health information relating to the child. It is likely that medical practitioners would consider the child's maturity and understanding before deciding whether the child is capable of exercising their rights under the code and therefore, whether the child's parents or guardian should be informed.

377. Disclosure may also occur where it is not desirable or practical to obtain the individual's authorisation, and amongst other things:

- the information is disclosed in accordance with recognised professional practice and is not contrary to the express request of the individual or their representative
- the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual or another individual.

378. Complaints to the Broadcasting Standards Authority on violations to children's privacy have resulted in an amended code with increased protection for children and young people's privacy.

#### **G. Access to appropriate information (article 17)**

379. See paragraphs 78 to 86 of the *Initial Report*. Exploitation of children's welfare by the media has been an issue in New Zealand (see paragraphs 979-981).

380. There have been some developments aimed at enhancing protection for children and young people in relation to information available from electronic sources such as the internet. For example, in relation to sexual abuse Child, Youth and Family has sponsored the Police to develop a resource pack on "Internet Safety". The pack is designed for parents, teachers and children to act safely and be aware of potential abuse situations when using the Internet. The resource pack is also supported by the Censorship Compliance Unit of the Department of Internal Affairs and End Child Prostitution and Tourism (ECPAT).

381. To identify paedophiles and potential paedophiles, Customs, the Police and the Department of Internal Affairs are working together to investigate the manufacture and supply of pornography, including tracing suppliers of pornographic material on the Internet.

382. The Commissioner for Children is involved in some research with the advertising sector which seeks to identify children's views of the media. It also facilitated a forum for everyone involved in the media that highlighted the need for enhanced government funding for New Zealand programming for children and young people.

383. The Advertising Standards Authority has responsibility for advertising standards and currently is revising its Code for Advertising for Children. The draft revised Code is based on UNCROC rights and protections and provides guidelines on how they are to be applied. It is due to be adopted by the Advertising Standards Authority before the end of the year 2000.

384. The Broadcasting Standards Authority (BSA) (see paragraph 82 of the *Initial Report*) regulates broadcasting standards. In 1999 the BSA conducted a survey on community attitudes towards broadcasting standards. The survey covered, amongst other things, people's views on responsibility for what children watch on television. Respondents saw parents' main task as being, ideally, to know and control what and when children are watching. Broadcasters were seen as having responsibility for the censoring and/or rating of television programmes. Sixty-one percent of respondents said they use classification symbols and warnings to decide which programmes they and their children would watch. The BSA has acknowledged the concern about children being exposed to inappropriate content and continues to work on child protection issues.

385. The Government has agreed to a vision that all New Zealanders have the opportunity to access and effectively use current and emerging information and communications technologies (ICT). One step government has already taken is to increase funding provided for ICT in schools and improving ICT training for teachers. The Government has also directed further work on identifying whether there is a "digital divide" in New Zealand, and if so, who is on the wrong side. In keeping with the vision, it will consider developing policies to improve access and skills for those who are currently excluded. This could be through public access sites such as schools, libraries and community centres.

#### **H. The right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment (article 37(a))**

##### **Residential care regulations**

386. Search and seizure provisions that allow children and young people in residences to be searched and any harmful items seized are currently specified in the Children, Young Persons and Their Families (Residential Care) Regulations 1996. In 1997 the Regulations Review Committee reviewed these regulations to consider if:

- the powers in the regulations relating to search and seizure of children and young persons in residences were excessive
- the powers in the regulations should be specified in primary legislation.

387. The Committee recommended that primary legislation should specify the powers to search and seize. The Government agreed and on 1 June 2000, the Children, Young Persons and Their Families Bill (no. 3) was introduced to the House and proceeded to select committee. The Amendment Bill sets out, in the Children, Young Persons and their Families Act 1989, the principles which allow children and young people in residences to be searched and any harmful items found to be seized.

388. The Bill includes definitions of the key terms relating to search and seizure with sections that describe:

- procedures for inspecting mail
- procedures for searching children and young people by a pat down, scanner or strip search
- using dogs for searching
- restrictions on searching, including how searches must be recorded
- the procedure for a child or young person to make a complaint
- the power to seize articles that may be found during the search.

389. The power to search by an internal examination (which is allowed for in the Residential Care Regulations) has not been included in the Bill. This is the most intrusive and potentially most degrading form of search. Since the Residential Care Regulations came into force in 1997, there have been no internal examination searches of children or young people in residences. Revoking this power will not diminish the ability of the Department of Child, Youth and Family Services to manage departmental residences. The decision not to include this provision in the Bill was made after consulting with relevant government agencies. In particular, the Ministry of Justice had advised that this provision was not entirely consistent with the New Zealand Bill of Rights Act 1990.

390. The amendments in this Bill will clearly authorise the powers that residential staff have to search children and young people if they believe they are concealing an unauthorised or harmful item. These powers are needed to protect other children and young people and the staff living in the residence from harm.

391. The Regulations Review Committee proved to be an effective mechanism for monitoring and protecting the rights of children and young people in residential care. However, there are issues about the time taken to make the changes it recommended. (The Committee also made a recommendation about appointing grievance panels. This did not require legislative change and has been addressed.)

### **Police searches of schools with dogs**

392. The Police do not have a policy on searching schools with drug dogs. However, children and young people have the right to be treated as any adult would be treated. Police should not search school buildings or students unless they are responding to an emergency situation and they have some real reason to suspect they will find drugs. Any other search at a school will be authorised by a search warrant or will only involve buildings where there are no students. A school can ask parents for consent to search as a condition of enrolment. However, regular and unwarranted searches would only discredit the Police and erode Police/student relationships.

### **Voluntary student drug testing**

393. Police do not have a policy supporting voluntary drug testing of students or any other sector of society. Periodically a school or other group will impose voluntary drug testing as a condition of enrolment or employment. The students or employees would have the option to not consent. An exception is where a student has been involved with drugs. As an alternative to expulsion and to keep the individual in school, the Police support voluntary drug testing.

394. Youth Aid Police Officers consider the proper approach for dealing with drugs in schools is to involve students and the wider community in education programmes.

## **PART 5: FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **Introduction**

395. Part 5 contains information about family structures within New Zealand and support for parents and families in caring for children. The main focus over the reporting period has been on enhancing support for parents and families, the basic legal framework has remained unchanged. Guardianship and adoption laws are being reviewed at present and information on any changes to the legal framework will be provided when this report is presented.

#### **A. Parental guidance (article 5)**

396. Children in New Zealand live in a variety of family and household types. Although most children live with two parents in a one-family household, there is growing diversity of living arrangements as a result of trends such as:

- growth in the number of never-married single parents
- increases in marital dissolution
- de facto marriages
- growing ethnic diversity.

(See paragraphs 1057-1063.)

397. Patterns of family formation and the type of families and households in which people live show considerable variation both within and between ethnic groups. The cultural differences, economic pressures and general social trends are all important influences on people's living arrangements.

398. Maori are more likely than non-Maori to live in extended families, this indicates the continuing importance of the traditional whanau. Maori adults most commonly live in two-parent families with children. Maori are considerably more likely than non-Maori to live in households containing two or more families.

399. The Government remains committed to assisting families where necessary with the key focus on strengthening families by:

- improving co-ordination of services at the local level for "at risk" families
- providing more effective support programmes such as intensive home visiting, school based support for children and their families, support for families of prisoners and parent education

- increasing universal family support services in child health and early education
- increasing intensive specialist services (eg, “Wraparound” programmes).

400. There are over 70 local communities managing a co-ordinated Strengthening Families approach to casework services across the health, education and welfare sectors. (See paragraphs 152-153 for more information about the Strengthening Families Strategy.)

401. The general legal responsibilities of parents to their children have not changed (see paragraphs 104 to 107 of the *Initial Report*. The Summary Offences Act 1981 prohibits parents and guardians from leaving children under the age of 14 years for an unreasonable period of time without providing supervision and care for the child (regarding all the circumstances). The Crimes Act 1961 also prevents parents or guardians of children under the age of 18 years delivering children to another person with the intention that the child shall be exploited for their labour.

402. The previous Government considered ways to encourage and support parents to meet their responsibilities, including a code for parents. Government concluded that a prescriptive approach would not be as effective as better support programmes.

### **Parenting education and family support**

403. Several submissions from young people called for more basic life skills education in housekeeping, budgeting etc. to equip them when they leave home. They also wanted more emphasis on parenting education in schools and something similar for new parents.

404. There is a range of services for new parents:

- Midwives will visit mothers at home between five and 10 times in the first six weeks after they are discharged from hospital (this is much more intensive than the previous arrangements in early weeks). Midwives provide parenting information and ongoing support as required.
- In addition to Lead Maternity Care services, whānau support services are available for women in areas of high need up to six weeks after the birth of a baby.
- Care is transferred to Well-child/Tamariki Ora services at six weeks and is provided to families with children up to five years of age.
- Additional services (including parent support and home-visiting) are provided to families who are assessed to be at higher risk of poor outcomes.
- Family Start (see paragraphs 402-404) provides intensive home visiting for families most in need in 16 sites around the country. Parent education and support is also provided.



405. Child, Youth and Family fund at least 400 parenting programmes nationally. Additionally, the voluntary sector provides a range of support to parents including La Leche League for advice on breast feeding issues. Breastfeeding levels have been stable over the last few years even with reduced hospital stays.

406. It was suggested that parents need information so that they can work through issues for older children such as youth alcohol use and teenage sexuality. Information on how to safely run a party for young people might help parents say “yes” when their son or daughter asks to have one.

407. A number of agencies provide information through television advertising and pamphlets to assist parents to work through issues, including:

- The Alcohol Advisory Council’s information on the effects of alcohol on young people, how to plan parties, host’s responsibility and how to talk to young people about alcohol issues.
- The Ministry of Youth Affairs’ resource for parents *Alcohol, Drugs and Young People - A Guide for Parents, Caregivers and Whanau* (Annex 39) provides tips about where to get information on drug and alcohol issues and young people. It provides general information about some of the behaviours young people/rangatahi display if they are using alcohol and drugs. It acknowledges that sometimes different views can lead to conflict and it suggests ways to ensure communication between the young person and parents is maintained. It also outlines who can help and where parents can find specialist services if they are required.
- A number of voluntary sector groups deliver drug education programmes. Some run parent evenings to inform parents about the available drugs, behaviours associated with alcohol and drug use and what agencies are available to assist them.
- The government funds a number of programmes delivered by the voluntary sector including GAIN New Zealand that helps families gain new skills to improve family life. It focuses on communication, decision-making, rules and consequences, cooperation, alcohol and drugs, anger management and health and well-being. GAIN has developed GAIN Whakaruruhau for Maori families. It has received funding from the Ministry of Education and the Crime Prevention Unit to deliver GAIN Family and GAIN Whakaruruhau to identified high risk communities with poor social outcomes. GAIN also delivers a national programme throughout New Zealand. A new programme to address alcohol and drug use amongst Pacific peoples is being planned.

408. The voluntary sector plays an important role in providing a range of parenting programmes and other social services to families in need of support. Many receive funding from government or are contracted to deliver certain services. Programmes vary from community to community.

### **Family Start**

409. Family Start is a targeted family support service, purchased by the Ministries of Health and Education and the Department of Child, Youth and Family. The service aims to:

- identify high-risk families
- improve long-term outcomes for children
- improve family functioning and parenting practice (including cognitive development)
- assist parents to improve their family and personal circumstances.

410. As part of the Strengthening Families Strategy (see paragraphs 152-153), in 1998 the Family Start programme commenced with three sites. Now operating in 16 sites throughout New Zealand, the programme uses a screening process to identify 15 percent of the population with newborn babies most at risk of having poor social outcomes across health, education and welfare sectors. Family Start:

- helps improve life outcomes of children, young people and families through early assistance and by helping children to enjoy a good start in life
- ensures those new parents most in need receive assistance in their own homes as early as possible
- provides funding so a person can work with a family for up to five years to help with parenting and household management skills.

411. The programme is based on overseas and local programmes that were effective in helping families with infants in areas where people have a lower than average socio-economic status and where there is a high proportion of Maori.

(A Family Start pamphlet is attached as an Annex 40.)

### **Wraparound services**

412. In 1997 the Government funded a Youth at Risk of Offending Crime Prevention Budget Package. One initiative was to develop a Wraparound system of care that uses individualised care plans and case managers who work with the young people and their families to develop and follow a clear case plan. It aims to deliver integrated inter-sectoral, community based services to young people aged 14 to 18 years and their families who are assessed as being at risk of offending and who have multiple needs.

413. The programme deals with young people's strengths and needs across welfare, health, education and justice issues. The young person receives seven to 10 hours' counselling a week backed-up with an integrated 24-hour crisis support service and supervision available to them and their family.

414. Wraparound services aim to decrease criminal activity, truancy and risk-taking behaviour and to increase education performance, health outcomes and life skills. It emphasises keeping young people in their community, rather than moving them to residential homes. The young person remains in their usual home environment and specialists work with them to develop a therapeutic care plan tailored to address their individual needs, and build on their strengths at the same time.

415. The services are also culturally appropriate. Te Whanau O Waipareira Trust is an urban Maori organisation from West Auckland which delivers a Wraparound service. The organisation is contracted to provide services for up to 100 young people per year. From a sample of young people, 76 percent identified themselves as either wholly or partly New Zealand Maori, while 37 percent identified with at least one Pacific Island ethnic group.

416. The Wraparound programme was independently evaluated with a report completed on 30 June 2000 (Annex 41). The service was not developed with specific reference to the Convention in mind, but has been audited for consistency with the principles contained in it.

### **Programmes to increase parenting skills**

417. A number of parenting programmes are offered in communities throughout New Zealand, mostly run by the voluntary sector. Many programmes are supported with government funding and cover child development needs, health and well-being. They teach parents how to interact and play with their children, while helping them understand the developmental needs of the child. They provide ideas on how to discipline children without smacking.

418. Other government-funded programmes that assist parents increase their parenting knowledge include:

- Parents As First Teachers (PAFT)
- Home Instruction Programme for Pre-school Youngsters (HIPPY)
- individual/family counselling by skilled workers
- education programmes
- holiday programmes for up to 13 year olds
- provision of family living skills in the home environment
- early childhood education.

### **Parenting education in prison**

419. The Department of Corrections has developed programmes to address parenting skills in prison. Many inmates have been victims of family violence in their formative years and this significantly increases the likelihood of their violent offending.

420. Developing parenting skills in this critical group creates opportunities to improve outcomes for both the inmate (by reducing the likelihood of family violence offending) and their children (through reduced risk of abuse and lowering the likelihood of entering an offending cycle themselves).

421. The Department of Corrections evaluated three parenting programmes provided in prisons as part of a crime prevention and family violence prevention package. It reported positively about the programmes and the implications are now being considered as part of the Reintegrate Services component of the Department's Integrated Offender Management Project.

422. The funds allocated for parenting programmes have been distributed to prisons that are running a variety of parenting programmes via a range of providers.

### **B. Parental responsibilities (article 18)**

423. The Guardianship Act 1968 provides that in custody and access proceedings, regardless of the child's age, there shall be no presumption that placing the child in the custody of a particular person because of their sex, will best serve the welfare of the child. It is up to the Court to decide which parent should have custody based on the best interests of the child.

### **Review of the Guardianship Act 1968**

424. New Zealand's law relating to guardianship, custody and access is over 30 years old and patterns of family life and values regarding family relationships have changed significantly since then. The review will address questions of the rights and responsibilities of parents and the care, welfare and development of their children in situations where issues of guardianship, custody and access arise. A public discussion paper (Annex 42) was released to gather information and encourage submissions for the review. The discussion paper states that most of the concerns about the current law fall into four categories:

- *Modernising language and key concepts*: The Act uses terms that are outdated and invite a combatant rather than a conciliatory approach to resolving custody and access issues.
- *Children and young people's rights*: Should there be an even greater or a different emphasis to ensure children and young people's welfare is paramount?
- *Rights and responsibilities of parents*: Should there be a greater focus on the rights and responsibilities of parents bringing up their children?
- Recognition of the wider family/whanau and of cultural diversity.

425. The discussion paper encourages thinking about the changing structures of families and the ongoing role of parents and wider family/whanau in children's lives. In particular, there is ongoing interest in the role of non-custodial parents in their children's lives. The review will examine how the current law has worked in practice.

### **Assistance in child-rearing**

426. Submissions indicate that parental leave, flexible hours for taking care of sick children, and costs for after-school care are issues for New Zealand. There were calls for paid parental leave and the availability of long-term unpaid parental leave. There was also support within the workplace for parents to move from full-time to part-time work when a baby is born. One suggestion was that the population as a whole should contribute to providing high quality childcare centres as well as a period of paid parental leave.

### **National survey on early childhood education and care**

427. New Zealand's first comprehensive national survey on early childhood education and care (ECE) was conducted as a supplement to the Household Labour Force Survey in 1998. The purpose was to gather information from parents on ECE arrangements for children under 14 years and to examine the relationship between ECE use and participation in the labour market. The survey did not seek to measure the impact of care arrangements on children, rather, it investigated the relationship between childcare arrangements and parental labour market participation.

428. However, the survey did collect information about the types and hours of ECE and found that some groups (particularly Maori and Pacific children and those from low income families) were less likely to participate in ECE. Issues of participation in and access to ECE arrangements will be the focus of work programmes co-ordinated by the Ministries of Education and Social Policy. (See paragraphs 725-745 for more information about ECE services.)

429. The survey found that 60 percent of pre-school children and 20 percent of school aged children had ECE arrangements during the term time, aside from being cared for by a parent or parents living in the household, and from being at school. The survey also found, however, that access to childcare was a problem for a proportion of families, particularly for single parents and families on lower incomes. Problems accessing ECE were a barrier to participation in employment for 15 percent of parents, with mothers' employment (particularly single mothers) more likely to be affected. Cost of care was the most common reason given by parents whose participation in employment was affected.

430. For 20 percent of all children, parents wanted either more hours of ECE, hours at a different time and /or different types of ECE. While the total demand for changes to arrangements was higher for pre-school children (31 percent) than for school aged children (14 percent), the highest reported demand for a single type of care was for before and after school care programmes (for 6 percent of school aged children).

431. The survey also confirmed parents' need for flexible work places. Parents were asked about how their work was arranged and the work arrangements they used to manage their childcare responsibilities:

- 37 percent of parents regularly worked in the evenings
- 35 percent used flexible working hours
- 30 percent did some work at home
- 23 percent worked for at least three hours in the weekend.

432. Mothers were more likely than fathers to work flexible hours, work at home and work mainly in the evenings. Fathers were more likely to do some work in the evenings and weekends. The most common arrangement used by parents specifically to help them manage their childcare responsibilities was to have their children at work with them. About 11 percent of employed parents had their children with them at some time while they were working. This was more likely for mothers (16 percent) than for fathers (8 percent) and for self employed parents (29 percent) than for parents working for wages and salaries (6 percent).

433. The Department of Labour is working with the survey results to investigate ways that childcare provision interacts with parents' labour market participation and the material well-being of families. The Department is also contributing to an interdepartmental work programme which will look at ways that the supply and affordability of childcare can be improved, particularly for low income families and for school aged children. (See the attached brochure outlining the key survey findings (Annex 43).)

434. The Employment Relations Service of the Department of Labour monitors collective bargaining outcomes. As at June 2000, the data covered 1,566 contracts covering 354,189 employees (which represents 20 percent of the employed labour force). Regarding special leave and more specific domestic leave, 92 percent of collective contracts lodged with ERS (1,444 contracts covering 316,026 employees) specify some form of domestic leave. Data is also collected on provision for parental leave specified in collective contracts. Thirty-four percent of collective contracts (540 contracts covering 181,043 employees) lodged with ERS have entitlements equal to or greater than the statutory minimum requirements of the Parental Leave Act 1987 (12 months unpaid leave). While this data reflects market provisions for leave, it does not reflect the number of employees who choose to use these provisions.

435. The Employment Relations Service is also jointly responsible with the Ministry of Women's Affairs for administering the Equal Employment Opportunities (EEO) Contestable Fund. One area the Fund focuses on is promoting family-friendly policies such as paid parental leave. Relevant projects funded include:

- 1999/ 2000 Mercer Cullen Egan Dell (NZ) Ltd - its project to produce a booklet on retention strategies for employers in regard to parental leave.

- 1994/1995 - Metropolitan Lifecare Group Ltd/ Service Workers Union - produced a booklet and held seminars regarding the development of family friendly policies at nine workplaces.
- 1993/1994 - Legal Resources Trust - produced a video promoting family friendly employment practices.

436. The Department of Labour is responsible for administering the Parental Leave and Employment Protection Act 1987 which is New Zealand's major piece of legislation that helps employees to balance work and family commitments. A Private Members Bill, requiring 14 weeks paid parental leave was introduced to Parliament in 1998, but was not proceeded with. The Government has signalled that it is committed to introducing paid parental leave but has not yet decided on the exact nature of the entitlement to be introduced.

### **C. Separation from parents (article 9)**

#### **Family violence**

437. The Guardianship Act 1968 was amended in 1995 to create new rules for dealing with custody and access applications where there are allegations of violence (see paragraphs 499-506). Under the new provisions the key principle is that if a person uses violence in their family relationship, they are not to have custody or unsupervised access to children until it can be shown that the child will be safe. The primary objectives of the provision are to ensure the best interests of the child (including their right to be safe) are protected.

438. Balancing the safety of children against their right to have contact with both parents continues to be an issue. Some guidance is provided under the Guardianship Act which states that in any proceedings relating to custody, access or guardianship, the Court will regard the wishes of the child (if the child is able to express them) and, their age and maturity.

439. Children living in the home of a person who has been before the Court on charges of domestic violence will have their custody and access assessed through that Court process. There is the option for Protection Orders to be made and for access to the violent parent to be supervised. The child may also attend a counselling programme. The offender, if convicted, must attend an appropriate programme to address violent behaviour. (See paragraphs 499-506.)

#### **Children's contact with parents who are in prison**

440. The following statistics provide a picture of the living arrangements for children who have a parent in prison:

- for male sentenced inmates, prior to entering prison 47 percent were living with at least one child under 18 years old and 18 percent were living with three or more children

- for female sentenced inmates, prior to entering prison 56 percent were living with at least one child under 18 years old and 18 percent were living with three or more children
- of those that said they were living with children prior to their imprisonment, 31 percent of men and 75 percent of women indicated that they were looking after at least one child on their own
- for male sentenced inmates who had dependent children prior to entering prison, 84 percent of children were now being looked after by the inmates partner or ex-partner and another 13 percent were being looked after by immediate family or whanau
- for female sentenced inmates who had dependent children prior to entering prison, 40 percent of the children were now being looked after by the inmate's partner or ex-partner and another 54 percent were being looked after by the immediate family or whanau. One in 20 female inmates had at least one child in care by foster parents or Child, Youth and Family.

441. During the reporting period the Department of Corrections has developed and introduced the "home detention scheme" as an alternative form of incarceration allowing offenders to serve their prison sentence in their own homes. New laws for the home detention scheme came into force on 1 October 1999 that expand the options for using home detention as part of the criminal justice system.

442. Firstly, offenders sentenced to up to two years' imprisonment, if assessed as suitable, can serve that sentence on home detention rather than in a prison. Secondly, inmates serving longer sentences (except those serving a term of life imprisonment, preventive detention, and those sentenced for serious violent offences) can be released on home detention three months before they become eligible for parole. The programme allows:

- offenders to continue meeting their family responsibilities
- parents can continue to care for or financially support their children (unlike imprisoned parents, who have to pass these responsibilities and costs on to other family members or to the State)
- home detainees can attend programmes dealing with problems that contribute to offending, such as lack of cognitive skills and substance abuse issues.

443. All offenders serving home detention are subject to intensive supervision by Probation Officers. Probation Officers work closely with the detainee's family/whānau to assist them to work through any issues that may arise from having a family member on home detention. A training programme has been developed for Probation Officers working with detainees and their family/whānau. The training includes sessions on problem solving, techniques and understanding how to work with family/whānau groups.



444. A two-year pilot was conducted in Auckland from April 1995 as provided by the Criminal Justice Amendment Act 1993. The Ministry of Justice also carried out an evaluation of the pilot over an 18-month period.

445. There were some negative aspects of the pilot including those associated with the electronic monitoring system and the low levels of participation in rehabilitative programmes and employment. These have been addressed in the expanded home detention initiative and its new operating procedures. To date a total of 390 offenders have served their sentences on home detention since the scheme came into force on 1 October 1999. Presently there are 149 offenders on home detention.

446. As part of the Government's Strengthening Families Strategy (see paragraphs 152-153), the Department of Corrections has received additional funding to establish two pilot programmes to provide reintegrative services for offenders and their families. The programmes will provide intensive home-based family support services to some inmates returning to the community with children under the age of 12 years. The service is designed to support inmates and their families both before and after release.

447. While the Department of Corrections and other agencies offer a range of other programmes aimed at inmates and/or their families, none of these programmes comprehensively targets both the offender moving back into a family unit and the family. This programme is designed to bridge the gap between the two sets of services and to address critical issues in reintegrating ex-inmates with their families. The results sought from the programme are:

- enhancing opportunities for the inmates' children
- parents more able to parent their children well
- improving personal, economic and family circumstances of the parents
- reducing risks to children nurtured within the family unit
- preventing future re-offending by the ex-inmate
- reducing risks of future offending by other family members (particularly the children).

448. The programme has the following core principles:

- The programme covers both before and after release, particularly emphasising the period immediately after release.
- The focus is on reintegrating the offender into the family and on the family reintegrating a returning family member.

- Intensive support is available to families, gradually reducing as family functioning increases. The support includes information and emotional support and is tailored to the family's needs.
- The programme offers a mix of practical support and building up skills, including parenting, budgeting, problem solving and pro-social skills.

449. The two pilot programmes are operating in Christchurch (as of January 2000) and Auckland (as of May 2000) and will run until 30 June 2002. Both are contracted to work with 60 families/inmates each. The programmes' evaluation is currently underway with a final report due in September 2002. The evaluation looks at both process and outcomes for inmates and their families in terms of reducing re-offending and improved family functioning.

450. The Department of Corrections has an ongoing project for women offenders with dependent children. The project aims to assist imprisoned mothers to address their parental responsibilities and to promote quality mother-child relationships, where this is in the best interests of the child. To identify best practice, the project examines current practice in New Zealand and overseas approaches. Examples being examined include:

- prison-based mother-child facilities
- child-centred visiting schemes
- extended mother-child visiting opportunities
- community-based residential schemes
- pre- and post-release programmes to assist family reunification upon the mother's release from prison.

451. The focus on women reflects both national and international studies, which highlight numerous difficulties in maintaining mother-child relationships where a mother is imprisoned. Many studies indicate this can impact on both the mother and the child and their relationship. This is a concern given that for many of these children their mother was their sole caregiver prior to imprisonment. In most instances, children of imprisoned men remain with their mothers during the period of imprisonment. It is also more likely that fathers will be housed in prisons closer to their children. Both national and overseas studies identify a significant barrier to maintaining the mother-child relationship is the considerable distance often placed between imprisoned mothers and their children.

#### **D. Family reunification (article 10)**

##### **Children of parents who are in New Zealand unlawfully**

452. There are wider implications for children when they are born in New Zealand and therefore have citizenship but their parents do not.

453. Because of their parent's illegal status, some children may not be enrolled in school as they do not have the documentation to prove their citizenship. The Ministry of Education is investigating administrative changes that could assist the enrolment of children who have citizenship rights, but whose parents are illegally in New Zealand.

454. There are anecdotal reports of children of illegal immigrants missing out on health services. Any person, regardless of their residency status, can access general practitioner services providing they can pay for those services (this may not be known in the immigrant community). However, some are gaining access to health services and subsidies by using the identities of family members who are here lawfully. Hospitals are obliged to provide acute and emergency services to all people irrespective of residency status - a bill for the service is presented to the children's parents or guardians whom the hospital identifies as being not eligible. However, hospitals describe difficulty in determining eligibility and thus pursuing debt.

455. If children are born in New Zealand, they are eligible for publicly-funded health services, although their parents may not know this, or they might have difficulty proving this or be reluctant to test their child's eligibility if they are here unlawfully.

456. Cabinet has agreed to a transitional policy that will enable some well-settled overstayers, and their immediate family, to regularise their immigration status. This opportunity is available to people who arrived before 1 October 1999, who are or who become unlawfully in New Zealand prior to 1 April 2001. Generally, an overstayer will be considered well-settled if they were in New Zealand on or before 1 October 1999 and come within the following categories:

- have been in New Zealand for five years or more
- are a spouse or partner of a New Zealand citizen or resident
- have a New Zealand-born child.

457. By reducing the number of people who are living in New Zealand unlawfully, many of the social problems that children of overstayers face will be reduced. For example, many overstayers have lived here for several years, some with New Zealand-born children. However, these people live in constant fear of being located and removed. This causes immense stress and anxiety and leads to other problems such as families preventing their children from accessing education.

458. This issue will be explored further as part of the review of New Zealand's reservation regarding children unlawfully in New Zealand (see paragraph 24(i)). The Committee will be informed of developments when this report is presented.

459. The rights of the child are taken into account when making immigration decisions. Border management is a core function of the New Zealand Immigration Service and involves ensuring the only people entering New Zealand are those who may lawfully do so, and

identifying and initiating removal actions against those who are unlawfully in New Zealand. Prior to a removal order being exercised against them, individuals have full rights of appeal. Any appeal takes into account the rights of the child.

460. The rights of the child to representation in removal proceedings have been enhanced. The previous policy required children (under 17 years of age) to be represented by a responsible adult. This has now been given statutory protection by the Immigration Amendment Act 1999 (Annex 44). Additionally, a provision has been added that requires the views of the child to be considered in immigration decisions that may affect them. These changes will be reflected in operational policy and ensure the child's circumstances are considered in all immigration decisions.

461. A new border and investigations operations manual is being prepared to better facilitate border control measures. The new manual is expected to ensure border and investigations procedures comply with the Immigration Act 1987, policy requirements, and the United Nations instruments to which New Zealand is a signatory (including the Convention). The manual has been rewritten to clarify the instructions and responsibilities of staff in relation to the Convention when initiating proceedings involving children. It includes a section specifically for dealing with children under the age of 17 years who are liable to be removed from New Zealand. The key requirements regarding interviewing and removing such children are:

- special care must be taken to ensure the interview is conducted fairly, in a sensitive manner, and in the presence of a nominated responsible adult
- no removal order can be served on a child who is under the age of 17 years and not married) and who is not represented by a nominated responsible adult
- an opportunity must be given for the child to express their views on the matter, whether personally or through a responsible adult
- due weight is to be given to the child's views having regard to the age and level of maturity and understanding of the child.

462. There are new provisions being developed to allow mass arrivals to be detained in premises other than prison pending determination of any refugee status claims. This enables the New Zealand Immigration Service to keep families together where there are no security or child protection issues.

463. In most cases where a person claims refugee status at the border, they are granted a permit until their claim is determined. This permit entitles them to claim a benefit and be advised of housing options. Families, including children, are almost never detained.

464. There are new provisions currently being worked on to allow spontaneous asylum seekers to be housed at the Mangere Refugee Resettlement Centre, in Auckland. This would allow those who appear to have manifestly unfounded claims to reside there until their claims are

determined. This would only involve families where their claim was obviously manifestly unfounded (for example, if they had already claimed refugee status in a country such as France or Switzerland, lived there for a few years and then decided to travel to New Zealand and claim refugee status here).

465. It is planned that around 40 refugee status claimants could be housed at Mangere at any one time, but it is not expected that there will be anything like that number. Anyone housed there would be free to come and go during the day and would have free access to move around the grounds.

466. There is an operational manual *Illegal Migrants Mass Arrivals* that clearly states Child, Youth and Family would be involved in any dealings with children and young people, including interviewing. It would also be notified of any care and protection issues that may arise under section 14 of the *Children, Young Persons and Their Families Act 1989*. In accordance with the principles of that Act, any child or young person would be retained with their family unless there was a serious risk of harm.

#### **E. Illicit transfer and non-return (article 11)**

467. New Zealand acceded to the Hague Convention on the Civil Aspects of International Child Abduction on 31 May 1991 and it entered into force on 1 August 1991. The Department for Courts' Chief Executive acts as the Central Authority. The Convention is intended to ensure that issues relating to children's custody are dealt with in the children's country of habitual residence. To secure and protect children pending the outcome of the application the Department for Courts ensures that all applications are processed expeditiously, appoints and funds senior counsel to represent the Central Authority, and liaises with other agencies (Police, including Interpol, and Child, Youth and Family).

468. New Zealand also participated in the negotiations for a protocol supplementing the United Nations Convention Against Transnational Organised Crime regarding the prevention, suppression and punishment of trafficking in persons, especially women and children. This protocol, which was concluded during October 2000 and will be open for signature from December 2000, complements the Hague Convention by providing additional protection to victims of trafficking and assisting in their recovery from trauma. In particular, the protocol requires all states to take into account assisting the children's special needs, including appropriate housing, education and care.

#### **F. Recovery of maintenance for the child (article 27)**

469. Responsibility for child support policy and legislation lies with the Inland Revenue Department (see paragraph 140 in the *Initial Report*). Significant court decisions in the area of child support will enhance the protection of children of same-sex families. For example, in *A v R* (unreported, High Court Hamilton Registry AP 93/96, Penlington and Hammond JJ, 10 February 1999) the Court held that a same-sex partner was a "step-parent" for the purposes of the Act. Of particular importance to the Court was the Act's underlying policy that children have a right to be maintained and that this policy would be undermined if same-sex couples were excluded from liability.

470. Agreement has been reached with Australia to allow child support payments to be collected from non-custodial parents that reside in Australia.

### **G. Children deprived of their family environment (article 20)**

#### **Foster care**

471. Submissions from a number of young people shared a common concern about providing greater scrutiny of caregivers and foster homes for children to ensure they are safe and have a good standard.

472. The Government has attempted to improve outcomes for children and young people who are referred to contracted foster care services by Child, Youth and Family. In most cases, neither the contract or funding arrangements with the contracted or foster care services specifically address issues of “permanency” for children. Instead, the funding is based on payments for units of care by “bednights”. However, a new approach is being taken to develop a contracting model to test whether outcomes for children and young people in foster care can be improved.

473. To illustrate, currently a carer will be funded to provide accommodation and care for a child without necessarily recognising the other aspects/quality of care. For example school attendance and support, being able to join clubs, sports teams, having appropriate clothing. Because funding is based on the numbers of children looked after, it is suspected that financial incentives encourage poorer quality of care. The new initiative will place more emphasis on the quality of care and will be evaluated over three years.

474. Child, Youth and Family has just completed a round of training for social workers on permanency planning for children to ensure casework focuses on the needs of children for permanency. It also recognises the importance of kinship placement as a goal for providing quality service by including a performance measure in its purchase agreement with Government that reflects increases or decreases in this area.

475. A qualitative research project has been completed by the Children’s Issues Centre at the University of Otago into children’s experience in foster and kinship care. This work is available to help inform policy and practice in this area.

476. The Children, Young Persons, and Their Families Act 1989 legislative framework has not changed.

477. However, section 9A of the Guardianship Act 1968 (see paragraph 153 of the *Initial Report*) was repealed by the Guardianship Amendment Act 1998. The 1998 amendment gave the Family Court full concurrent wardship jurisdiction with the High Court which previously had only a limited form of wardship. The amendment recognises the increased expertise of the Family Court in wardship matters and the more comfortable forum of the Family Court for parties to wardship proceedings.

## **H. Adoption (article 21)**

478. The Law Commission has reviewed the Adoption Act 1955 as per the Minister of Justice's terms of reference. The terms of reference required the Commission to review the legal framework for adoption in New Zealand as set out in the Adoption Act 1955 and the Adult Adoption Information Act 1985 and to recommend whether and how the framework should be modified to better address contemporary social needs. Among other things, the Commission considered the principles that should apply in relation to:

- adoption
- who may be adopted
- who should be permitted to adopt
- whether there should be any restrictions on step-parent or inter-family adoptions
- who should be required to consent to an adoption
- whether an adoption order may be cancelled by an adopted person
- whether special recognition should be given to Maori customary adoptions or any other culturally different adoption practices
- whether provision should be made for future contact between natural parents and other people, including grandparents, adoptive parents, and the adopted child
- whether the scope of the Adult Adoption Information Act 1985 should be expanded to cover a wider range of people
- at what stage should an adopted child be entitled to information about their identity
- whether the current procedures under the Adult Adoption Information Act 1985 are still appropriate.

479. The Law Commission's report (Annex 45) to the Minister of Justice at the end of September 2000 forms the primary focus for the select committee review of adoption. The select committee process will ensure that any recommendations for change arising from the Law Commission's review will be fully examined before the Government makes final policy decisions. It also allows the community to express a view on any proposals for future adoption laws through oral and written submissions to the select committee.

480. The terms of reference for the review require the select committee to inquire into New Zealand's adoption laws and to consider what changes should be considered to better address contemporary social needs and improve the attitude towards adoption, including:

- an increased focus on children's interests
- the unique character of New Zealand society, including Maori and other cultural values and needs
- whether any other changes to the current law are desired in light of issues arising from past adoption practices.

481. The select committee will also review some provisions of the Adoption (Inter-country) Act 1997. The review's results will be provided when this report is presented.

### **Inter-country Adoption**

482. Paragraphs 159 to 164 of the *Initial Report* set out the background to New Zealand's current law and practice on inter-country adoption. While the priority is for children to be cared for by their biological or extended families, inter-country adoption may be considered as an alternative once it has been established that a satisfactory solution for the child cannot be found within the child's state of origin. New Zealand's aim for inter-country adoption should be to provide stability, continuity and permanency of relationships that promote the child's growth and development.

483. As noted in paragraph 102 above, New Zealand acceded to the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption on 18 September 1998 and the Convention is contained as a schedule to the Adoption (Inter-country) Act 1977. Also effective from 1 January 1999 are the regulations which were passed in 1998 that set out the functions that may be delegated to New Zealand accredited non-governmental organisations. Accreditation gives organisations the authority to operate in countries outside New Zealand that have ratified or acceded to the Hague Convention. The Act does not allow any profit to be made by accredited non-government organisations from the delegated functions. Organisations may charge or pay only reasonable costs and expenses and must explicitly avoid the financial exploitation of any party to an inter-country adoption.

484. The new policies and legislation aim to ensure that inter-country adoptions are in the best interest of the child and respect their fundamental rights as recognised in international law. The new system gives flexibility to prospective adoptive parents through a choice of services namely, either the New Zealand Central Authority (the official government adoption agency) or a non-governmental organisation. Under the Convention, each contracting state designates a Central Authority to ensure duties imposed by the Convention are carried out. In New Zealand the legislation designates the Chief Executive of the department responsible for the administration of the Children, Young Persons and Their Families Act 1989.



485. The Act specifies criteria and procedures for accrediting non-government, non-profit-making bodies to which Convention functions may be delegated. The Chief Executive of Child, Youth and Family is responsible for monitoring the non-government bodies to which it has delegated functions.

486. New Zealand considers it essential that any adoption services have the highest possible standard. Quality of services provided by non-government organisations is assured in several ways, including the accreditation system. The New Zealand Central Authority is required to:

- obtain medical, Police and referee checks on all prospective adoptive parents
- give the final and official approval of all prospective adoptive parents
- give the final agreement to a specific adoption.

487. It is also responsible for placing a child following an adoption breakdown.

488. In May 1999 the New Zealand Standards for Accreditation for organisations to undertake inter-country adoption services were produced - these embody the principles of the Convention. Organisations that apply to undertake the delegated functions must demonstrate that they meet the criteria set out in those standards which closely reflect the Adoption (Inter-country) Act 1997 and the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption. At this stage no organisations have been accredited and, accordingly, no formal evaluation is planned.

489. The Hague Convention only applies to adoptions between contracting states. Overseas adoptions from non-Convention countries are still possible. Adoptions in countries that are not party to the Convention are recognised under section 17 of the Adoption Act (see paragraph 159 of the *Initial Report*).

490. The Adoption (Inter-country) Act amended the Citizenship Act so that a person adopted overseas by a New Zealand citizen (by an adoption order which is certified by the competent authority of the contracting State) is deemed to be a child of that citizen. The child obtains New Zealand citizenship automatically by descent.

491. The Adoption (Inter-country) Act created an exception to the prohibition under the Adoption Act on payments for arranging adoptions. The Act also increased the monetary penalty for offences against the Adoption Act from \$100 to \$15,000. Offences include giving or receiving payment for adoptions outside the above exception. The exception only relates to paying reasonable costs and expenses to an accredited body in respect of exercising that body's delegated functions.

### **I. Periodic review of placement (article 25)**

492. All care placements made by Child, Youth and Family are reviewed regularly. Designated caregiver liaison officers carry out responsibilities that relate to the caregivers. Case

work staff carry out responsibilities that relate to the child or young person. Courts also review orders for the custody and guardianship of children and young people (at least every six months for children under seven years of age, annually from seven years of age). Recent staff permanency training focused on children and young people's needs in care. Training is provided to approved caregivers before and during caregiving.

(See paragraphs 190 to 193 of the *Initial Report* for processes to ensure periodic reviews of placement.)

**J. Abuse and neglect (article 19), including physical and psychological recovery and social reintegration (article 39)**

493. Paragraphs 169 to 186 of the *Initial Report* set out the general legal framework in this area.

494. The Children, Young Persons and Their Families Act 1989 remains the governing piece of legislation in the area of child abuse and neglect. It provides administrative, social and educational measures to protect children from violence, abuse and neglect.

495. Child abuse is a concern for New Zealand. Submissions reflect the public's concern that New Zealand is still not doing well in terms of preventing child abuse. The James Whakaruru case (see paragraphs 515-516) was cited as an example that children are still slipping through the cracks, despite improvements in government agency co-operation. Suggestions for improvements include:

- a better resourced child protection agency with more well trained staff working in the area
- better communication between agencies
- improved training for professionals to boost child abuse reporting.

Child Abuse Statistics

Year	Number of substantiated abuse findings
1996/97	7 981
1997/98	6 800
1998/99	6 858
1999/2000	6 807*

(\* There will be an increase on this last figure as more assessments from recent investigations are recorded.)

496. Developments in the area of child abuse and neglect during the reporting period include:

- additional funding for residential services and alternative care
- public awareness and education campaigns that aim to raise awareness about child abuse to prevent and stop it
- developing and implementing risk estimation tools for social work practice
- particular focus on improving professional services including registering social workers.

## **Legal Safeguards**

### **Corporal punishment**

497. Education campaigns on alternatives to smacking have been developed. However, the legal framework for corporal punishment has not changed. (See paragraphs 187-189 of the *Initial Report*.)

498. Section 59 of the Crimes Act 1961 does not sanction child abuse or protect a parent from the consequences of using excessive force. The legislation is clear in its requirement that physical force may only be administered to a child where it is done for the purpose of correction and where the degree of force used is “reasonable”.

499. The Court considers a number of factors to decide if the degree of force used by a parent was reasonable, including:

- the age and maturity of the child
- other characteristics of the child, such as physique, sex and state of health
- the type of offence
- the type and circumstances of punishment.

500. The section does not sanction uncontrolled punishment carried out in anger. Nor does this section make it acceptable for a parent to apply an unreasonable degree of force in disciplining a child.

501. The Government is reviewing other countries steps to address this issue, including the education campaigns that have preceded legislative change (see paragraphs 79-81).

502. New Zealand uses education as the primary means to encourage parents to find alternatives to corporal punishment of children. In September 1998, Child, Youth and Family launched the “Alternatives to Smacking” campaign, the fourth stage in the Breaking the Cycle programme that commenced in 1995. The main objectives are to raise awareness of the alternatives to smacking and encourage parents and caregivers to think about using them. This campaign focused on television as the key medium, supported by posters, an 0800 freephone help line and pamphlet distribution (Annex 46).

503. Results show the campaign was successful in raising awareness of the alternatives to smacking. It also found a positive attitudinal shift and a significant behavioural shift from pre-contemplation to contemplation of the alternatives to smacking.

504. A submission stated that physical abuse of children will continue to happen unreported in the community because hitting is seen as “standard parental discipline”. Other people thought that to do away with it will mean loss of parental control. Opponents of corporal punishment recognised that parents do need to be “effectively” educated and supported if the law is changed. Reference was made to educational material on alternatives to corporal punishment produced by EPOCH and the Peace Foundation.

### **Children Young Persons and Their Families Act 1989**

505. The Department of Child, Youth and Family Services provides services under the Children, Young Persons and Their Families Act 1989 and has primary responsibility for preventing and responding to child abuse and neglect (see paragraph 160).

### **Domestic Violence Act 1995**

506. The Domestic Violence Bill (noted in paragraph 172 of the *Initial Report*) was passed in 1995 and established a new approach to dealing with domestic violence. Of particular significance for children and young people are:

- Extending the definition of “domestic violence” to include psychological and other non-physical forms of abuse. The definition of psychological abuse includes allowing a child to witness the abuse of a person with whom the child has a domestic relationship or putting the child at risk of witnessing the abuse.
- When a protection order is granted, it automatically covers children of the applicant’s family who live with the applicant.
- Children may apply, with the assistance of a third party, for a protection order against a parent or another adult where they are the victim of violence.
- An order can be made against someone the victim continues to live with, but only with the victim’s consent.

- There is a presumption against a violent parent having custody and access
- Attendance at a programme is mandatory for abusers.
- Programmes are also available for children who have suffered or witnessed abuse.

507. Extension to children is based in part on research showing that children suffer psychological harm when they witness domestic violence and that children are also at risk of violence where a parent is being abused by their partner. From July 1998 to June 1999 there were a total of 7,058 applications for protection orders under the Domestic Violence Act. These applications affected 10,708 children (4,554 under five years old and 6,154 over five years old).

508. At the same time, the Guardianship Act 1955 was amended to create new procedures for dealing with custody and access applications where there are allegations of violence. The Act inserted new sections 16A, 16B and 16C and the effects are:

- When it is alleged that a party to a custody or access proceedings has used violence against the child, a child of the family, or against the other party to the proceedings, the Court shall determine whether the allegation is proved.
- If the Court is satisfied that a party has used violence against the child, a child of the family, or the other party, the Court must not make an order giving the violent party custody of the child; or make any order allowing the violent party access unless it is supervised, unless the Court is satisfied that the child will be safe.
- If the Court is unable to determine whether the allegation of violence is proved, but is satisfied that there is a real risk to the safety of the child, the Court may make any order under the Act to protect the safety of the child.
- Supervised access means face to face contact between a parent and child in a place approved by the Court and in the immediate presence of a person approved by the Court.
- Any costs incurred by any other person in facilitating supervised access must be paid by the person exercising supervised access.

509. These amendments apply to physical or sexual abuse used against the child, a child of the family, or against another party to the proceedings. Violence is defined as only physical or sexual abuse. However, judges may take into account psychological abuse, threatening behaviour, and violence against others as conduct that is relevant to the welfare of the child. Evaluation of the Guardianship Act 1955 amendments shows that the law changes have enhanced the protection of children and young people.

510. In May 1999 the Ministry of Justice published a report on the results of researching the Guardianship Act's new provisions. The report, *The Domestic Violence Legislation and Child Access in New Zealand* (Annex 47) concluded that the provisions for access to children in domestic violence legislation have led to a growing use of access arrangements which are safer for both children and custodial parents.

511. However, the research found that some children continue to be exposed to violence during access. The research also suggested improvements to enhance the protection of children's well-being, including:

- supervised access services for Maori children
- access to information for parents
- the quality of professional services to parents
- access to appropriate support services for Maori parents.

512. Additional improvements were suggested in relation to:

- the Courts' access to information about child safety
- the length of time taken to finalise court cases
- guidance for informal access supervisors
- safety outside supervised access centres
- the funding of supervised access services.

513. The Department for Courts and the Ministry of Justice are considering the report's implications. A wider inter-agency steering group has been established to consider issues with greater policy implications that arise from both the Domestic Violence Act Process Evaluation and the report into child access under the domestic violence legislation.

### **Legal processes and complaints procedures**

514. In addition to the general legislative framework, a number of administrative initiatives have been undertaken to enhance legal services to children and young people:

- To improve protection for child witnesses in the criminal courts, the Department for Courts has developed protocols, including those concerning prioritisation of cases.
- In November 1998, the Chief Justice and Chief District Court Judge issued a Practice Note requiring that the criminal courts identify and prioritise cases involving child complainants and child defendants.

- The Government continues to strive to minimise the trauma of court proceedings for children through closed circuit television for children giving evidence and providing facilities in courthouses to ensure child witnesses do not have contact with an accused or their supporters.

515. In the Family Courts, orders to secure the safety of children who require care and protection are made under the Children, Young Persons' and Their Families Act 1989 (including restraining orders, guardianship, custody and support orders). The children's safety is a paramount consideration in this jurisdiction under the Guardianship Act 1968 and the Domestic Violence Act 1995. Counsel for the Child may be appointed to represent the child's interests or to assist the Court. Appointment of Counsel for the Child is compulsory in proceedings under the Children, Young Persons and their Families Act 1989.

516. In the Family Courts, new caseload management practices have been developed and new standards have been introduced to establish set timeframes within which certain steps must be taken. Monitoring these timeframes ensures that cases involving children are proactively managed and progressed.

517. The Youth Court (a specialist court) has jurisdiction over criminal offending by young people aged 14 to 16 years. However, police diversion or Family Group Conferences deal with the majority of cases before they appear before the Court. Where a young person is involved in Youth Court proceedings and it becomes evident that there are care and protection issues for that young person, the Court can refer the matter to Child, Youth and Family. The Youth Court case will usually be set aside pending resolution of those matters and the legal counsel appointed by the Court (Youth Advocate) will monitor progress (see paragraphs 863-866).

518. If a child wants to complain about the way their case has been handled they can contact the Office of the Commissioner for Children (see paragraphs 136-138).

### **Education and awareness raising**

519. Public education and awareness of the issue of child abuse and neglect was a major focus of policy in this area during the reporting periods. Child, Youth and Family devised and implemented the Breaking the Cycle campaign under section 7 of the Children, Young Persons and Their Families Act. The campaign aims to educate and promote awareness among New Zealanders about the unacceptability of child abuse and how to recognise, prevent and report it. Raising awareness through community and professional education and providing early assistance is designed to help reduce the prevalence of child abuse and neglect and to enhance protective or preventive behaviours in the community.

520. The campaign consists of a series of television, radio and print media advertisements which highlight the issue of neglect and provide an 0800 freephone number the public can use to get information, counselling or referral services. The programme is evaluated on an ongoing basis as part of a continuing strategy to strive for improved awareness and a positive attitudinal and behavioural change. The campaign was developed without specific consideration of the Convention, but is consistent with it.

521. Child, Youth and Family maintains its public and community education programmes. No major new abuse prevention campaigns are planned for the next year, but the Breaking the Cycle campaign will continue with a stronger focus on community education. Child, Youth and Family is promoting New Zealand's first ever Children's Day on 29 October 2000 with the theme "Celebrating Our Children" and focussing on meeting children's needs. A wide range of government and non-government agencies is working to support the public relations campaign which is expected to become an annual event.

### **Monitoring**

522. The Commissioner for Children has a key role in monitoring violence and abuse against children (see paragraph 9 of the Initial Report). In June 2000 the Commissioner for Children published a report on the investigation into the death of James Whakaruru (Annex 48). James died on 4 April 1999 from one or more physical assaults perpetrated by his mother's partner who had been convicted of a previous assault on James in 1996. The Commissioner investigated to examine how James came to die in spite of the many agencies involved with him and his family, and to consider what changes are needed.

523. The report's recommendations to Government, Ministers and Chief Executives of government and non-government agencies included that the Minister of Social Services and Employment establish an inter-agency taskforce to ensure that all the recommendations from the report are implemented. This Committee has been established and it is anticipated that the inter agency co-operation and communication will enhance care and protection for children and young people. Monitoring social services by both government and non-government is expected to be more stringent as the recommendations of the report included enhanced compliance with the care and protection legislation, and policies and protocols within departments.

524. Of particular importance were the recommendations that the Department of Child, Youth and Family comply with the legislative requirements in respect of care and protection notifications to the department. Once assessed, these notifications may result in calling Family Group Conferences. An important part of Family Group Conferences is that the care and protection concerns about a child are clearly communicated to family members who, in turn, are involved in finding and implementing solutions (see paragraphs 532-533).

525. The New Zealand domestic violence legislation (see paragraphs 499-506) is unique and developments are closely monitored.

### **Social programmes and support for children**

526. Funding children's programmes through the Family Court under the Domestic Violence Programmes (Regulations) 1996 is a positive intervention to help children deal with the effects of domestic violence. The programmes are based on best practice education strategies and have an assessment component that may also identify abuse issues.



527. All programme providers are required to have child abuse reporting protocols in place. The Department for Courts and the Ministry of Justice have commissioned an evaluation of the children's programmes. The Department for Courts is also involved in a reference group for a joint inter-agency initiative regarding child witnesses of domestic violence between Child, Youth and Family, the Police and the National Collective of Independent Women's Refuges Inc.

528. The overall aims of the programmes are:

- to successfully prevent and ameliorate any likely harm to children resulting from their experience of family violence
- to provide a range of therapeutic services to children to respond to individual needs
- to deliver services in a culturally appropriate way
- to involve primary caregivers so there is transfer of the learning to the home environment
- assist in removing barriers to the child's development resulting from family violence.

529. The programmes were evaluated and most of the responses from parents and children indicated that many of their needs were met during the programme and that these gains were sustained three months later. Although long term outcomes could not be assessed, the parents and children indicated that most key features of successful programmes were present.

530. Submissions commented that children and young people who have been subjected to violence in the home are not taking advantage of programmes provided under the Domestic Violence Act aimed at helping them recover.

531. The Principal Family Court Judge issued a Practice Note in May 1999 that established a referral process from the Court to the supervised access provider, where an order for supervised access is made. There are 36 providers affiliated to the New Zealand Association of Children's Supervised Access Providers that the Court can make referrals to.

532. The passage of the Domestic Violence Act 1995 (see paragraph 499) has greatly increased demand for services. The objective of the Domestic Violence Act (and therefore the Government's overall objectives in providing services) are:

- to increase awareness of family violence
- to assist people who have been affected by family violence
- to break the cycle of family violence.

533. The Government has developed initiatives that are designed to meet its statutory objectives, particularly in relation to children and young people. For example:

- Personal safety training for girls - this aims to equip girls aged approximately nine to 13 years with skills and strategies to deal more effectively with their personal safety. Training is provided nationwide.
- Maori family violence prevention services - aims to focus on changing Maori attitudes and behaviours of Maori about the abusing women and children in ways that mobilise Maori communities and that are relevant to Maori families.
- Specialist services for child victims and witnesses of family violence - focuses on reducing the inter-generational transmission of family violence by providing assessment, support, counselling and advocacy programmes for child victims and witnesses of family violence.
- Additional resources for victim services - aims to augment existing programmes which aim to break the cycle of family violence by providing funding for non-governmental organisations to deliver additional services to meet increased demand from victims of family violence.
- Extension of family violence services in rural areas - seeks to augment existing programmes that aim to prevent family violence by taking the services to the victims in rural areas.
- Community-based sex offenders programmes - designed to extend community-based intervention programmes for adult sex offenders to non-mandatory referrals as well as Court referrals.
- Violence in Schools - the Ministry of Education's Violence Prevention Programme deals with bullying and harassment in schools.

534. All these initiatives provide services in areas of need for children and families. The initiatives provide a variety of innovative responses and prevention services to promote attitudinal and behavioural change in the area of family violence prevention. Many of the services are focused on areas of need which were identified through research on social needs and relevant statistics, such as:

- the National Survey of Crime Victims 1996
- the Women's Safety Survey 1996
- information from the National Collective of Independent Women's Refuges Inc.

535. These initiatives were not developed with the Convention in mind, but have since been checked for consistency with the principles contained in the Convention. Evaluations are showing positive outcomes.

### **Identification, reporting and response**

536. As noted above, the basic systems for reporting abuse are covered by the Children, Young Persons and Their Families Act 1989.

537. Inter-agency protocols for reporting child abuse, developed and put in place in 1995, are still operating. Protocols were agreed between Child, Youth and Family and the Ministries of Health and Education, and Police as well as with youth workers and a wide range of community providers.

538. To facilitate reporting abuse, the freephone 0508 FAMILY (0508 326 459) call centre was established. By June 2001 the whole country is expected to be connected to the call centre to receive calls and notifications of child abuse to Child, Youth and Family.

539. The investigation into the death of James Whakaruru (see paragraph 515) found that poor inter-agency communication characterised the professional work with James and his family. Agencies worked without reference to each other and ended their involvement assuming that other parts of the system would protect James. Some workers seemed unaware of the indicators of a child at risk or did not appreciate the role they needed to play to ensure his safety and well-being. A number of measures have been put in place as a result of the Commissioner for Children's report and recommendations.

540. An action plan has been developed and an inter-sector monitoring group has been established with the Chief Executive of Child, Youth and Family as Convenor to ensure progress is made. Key items include (but are not limited to):

- Information sharing between agencies - for example, between Courts, Police, Child Youth and Family and Corrections when a protection order exists and a convicted abuser is released to their family home on parole.
- Focus on the development of local relationships between key agencies such as Child, Youth and Family and GPs.
- Review current reporting protocols for effectiveness and improve accordingly.
- Review the inter-agency project between Police, Women's Refuge and Child, Youth and Family on effective intervention in situations of family violence.

541. Another initiative to improve information sharing is the safety assessment form police officers complete when attending family violence call-outs. The form provides a basis for the Police to assess the safety of any child/young person present. Several options are available to the officer, ranging from:

- immediate action
- Child, Youth and Family referral
- note for the future.

542. Safety assessment forms will be evaluated during the year 2000.

543. A protocol between the New Zealand Association of Children's Supervised Access Services and the Department for Courts has been developed. It deals with how referrals are made from the Court, as well as arrangements for passing information and reports between the Court and the service provider. The aim of the protocol is to ensure safety for children whose parents are subject to supervised access orders.

544. In June 2000 the joint protocol (recommended by the Commissioner for Children's report on the death of James Whakaruru) between the Department for Courts and Child, Youth and Family was signed. It results from joint agency work to identify and resolve issues relating to providing social work reports ordered by the Court. It has been implemented across all sites with staff training for both agencies. Further training has taken place with the Family Law Section of the Law Society in specific areas.

545. The protocol details the service requirements to ensure there is an effective and efficient client protection network for vulnerable and at risk children, young people and families. The protocol specifies three tracks for referral by the Family Court to Child, Youth and Family. The fourth track details the reciprocal arrangements for the lawful exchange of information between the two departments and between the Court and Child, Youth and Family.

### **Department of Child, Youth and Family Risk Estimation System**

546. Child, Youth and Family has developed a tool to assist those working with victims of child abuse. The Risk Estimation System (RES) is a risk assessment tool designed to improve social work decision-making for children and young people who have been abused and/or neglected. The three elements of risk that the RES assesses are:

- the child or young person's vulnerability
- the likelihood that abuse and/or neglect will re-occur
- the probable severity of a future incident of abuse or condition of neglect.

547. RES assesses the characteristics of the caregivers and the provision of care. This is based on the belief that the caregiver is responsible for a child's care and safety and that maltreatment is unacceptable no matter how difficult the child's behaviour or the adult's situation. Social workers gather and analyse information on a scale of 22 items and make judgements around the three elements of risk.

548. The goal is for Child, Youth and Family to have a consistent and effective approach to statutory child protection risk assessment and management. The policy requires that every child who is abused and/or neglected receive a RES assessment. In July 1999 an independent evaluation started on RES' impact on statutory child protection practice and client outcomes. One objective of the evaluation is to examine the cultural implementation of RES with regard to whānau/hapū and iwi and Pacific families and communities. The evaluation will be completed by December 2000.

549. All care and protection staff have been trained in RES and for new staff there is scheduled training via the Local Training and Development Units. Expert user group meetings are held quarterly.

550. Last year the national performance for RES assessments completed was 60 percent with a number of sites over 90 percent. The target for this year is 70 percent assessments completed. There is no plan to extend using RES to other agencies as it is a tool for statutory investigation has been undertaken.

### **Trans-Tasman care and protection proceedings**

551. New Zealand has recently introduced measures to formalise the transfer of care and protection orders and proceedings between the states and territories of Australia and New Zealand. The objectives are:

- to improve the effectiveness of inter-country placements of New Zealand children and young people who are the subject of care and protection proceedings
- to facilitate the ongoing care of such children and young people by ensuring placement options are thoroughly investigated before transfer.

552. In 1999, legislation was introduced to amend the Children, Young Persons and Their Families Act 1989 and put in place an agreed procedure for the transferring children and young people and establishing protocols for welfare agencies. Child, Youth and Family are responsible for implementing this amendment and the agreed protocol. Staff guidelines contain reference to children's rights. The impact of the policy proposals on children was considered during the policy development phase.

### **Recovery and reintegration of child victims of abuse**

553. A number of submissions (including several from young people), asked for more resources for rehabilitating children and young people who have been subject to abuse (including drug abuse etc.) to allow them to lead normal lives. There was a call for easier access to counselling for young people without having to go to their parents for advice on who to contact.

554. Responsibility for the recovery of child victims of abuse crosses several sectors and agencies. Within each sector there is ongoing work. The government has invested funds into services that meet the needs of child victims of abuse. For example:

- Police, Child, Youth and Family, and Women's Refuge's project for child victims of family violence
- Child, Youth and Family is proposing multi-agency centres for child abuse victims
- the Ministry of Justice is developing a child witness programme to provide child victims, witnesses and their caregivers who are required to come to Court, with specialist support and assistance (to prevent secondary victimisation through the court system)
- the Department for Courts has undertaken initiatives to enhance representation of the views of children in the court process (such as the review of the role of Counsel for the Child)
- the Domestic Violence Act 1995 provides funding for approved programmes to protected people and their children.

555. Collaboration between the sectors is needed to ensure the physical and psychological recovery and social reintegration of child victims of ill-treatment and abuse. An example is the development of a medium term strategy to address the severe mental health and/or severe behavioural difficulties of children and young people. Protocols have been developed between sectors to ensure that appropriate mechanisms are established for consistent service delivery (Child, Youth and Family and ACC). The inter-agency group established to ensure the coordinated progress of recommendations in the Commissioner for Children's report on the death of James Whakaruru is another example.

556. For more information about the health, education and welfare services available to child victims (see parts 6, 7 and 8 of this report).

## **PART 6: BASIC HEALTH AND WELFARE**

### **Introduction**

557. Part 6 of the report covers services for children with a disability, health and health services, social security, childcare services and facilities, and standard of living.

558. Concerns about increased income inequality in New Zealand and its impact on children's standard of living and enjoyment of their rights are noted in this part of the report.

#### **A. Children with disabilities (article 23)**

559. Information about discrimination against children with a disability is provided in paragraphs 264-269 of this report. This part of the report covers the services provided by health and disability support services. (For information about the right to education for children with a disability please see paragraphs 705-719.)

560. The broad framework for meeting the needs of children with disabilities, including those with mental disabilities has remained during the reporting period (see paragraphs 198-208 of the *Initial Report*). Health and education agencies in New Zealand are responsible for interfacing with each other to determine and provide support services. Which agency delivers a service often depends on the child's age. Recently developed services include new training and education programmes for caregivers.

561. Submissions said income testing for the disability allowance on parents of children with a disability is causing hardship for middle income families. Comments were also made on the lack of support services in rural areas and generally uneven standards of services.

562. Submissions also cited a lack of co-ordination between services, especially health and education in children's disability services. An example included discussions between the Ministry of Health and the Ministry of Education about which agency is responsible for providing a special chair so a young girl can sit comfortably for a full day's schoolwork.

563. A New Zealand Disability Strategy (Annex 49) is being developed and a draft is out for consultation (see paragraphs 585-590). Further information on this strategy will be provided when this report is examined.

564. In May 1999 the Government also introduced a \$200 subsidy (more in some circumstances) towards providing vision examinations, lenses and frames for children under six years of age from low income families. Services to assist the orientation and mobility of visually impaired children have been introduced and are administered by the Ministry of Health for children under five years and by the Ministry of Education for children over the age of five years.

565. The health sector is responsible for providing a range of support services, including respite care for families and personal assistance for children, and child development services. Access to support services is based on an individual assessment of the needs of the child or young person with a disability as well as the needs of their family or whānau, and co-ordinating services and planning. There is also an interface between health services and Child, Youth and Family in providing services for children with disabilities who are at risk. New protocols that address this interface have been developed.

566. A strategy is being developed to improve inter-sectoral co-ordination and collaboration in providing services for children with high and complex needs. The strategy initially focussed on children and young people with severe mental health and/or behavioural problems, but has been extended to cover all those with high and complex needs, irrespective of diagnosis. The Ministries of Health, Education, and Social Policy and Child, Youth and Family are involved.

567. In 1998, services for children and young people with autism and support services for their families were reviewed. The Autism Review contained a range of recommendations that will be implemented by relevant funders and providers over time (Annex 50).

## **B. Health and health services (article 24)**

568. The overall framework for providing health services was set out in the *Initial Report* (paragraphs 215 to 223).

### **The Child Health Strategy**

569. In July 1998 the Minister of Health launched the Government's *Child Health Strategy* (Annex 51). Submissions emphasised the need for programmes to be carefully implemented, monitored and evaluated for their effectiveness. For example, there was support in principle for the Child Health Strategy, but the message was that it must be effectively implemented.

570. This strategy was developed through extensive consultation with the child health sector and the Child Health Advisory Committee. It identifies four groups of children (those aged under 14 years) who have the highest need for interventions to improve health outcomes:

- tamariki Maori (Maori children)
- Pacific children
- children with high health and disability support needs
- children from families with multiple social and economic disadvantages.

571. It provides a set of standards to evaluate present activities and identify potential change. The Health Funding Authority and the child health sector are responsible for implementing the *Child Health Strategy*.



572. The Strategy establishes six future directions to guide the development of health services for children in New Zealand. One is improving child health evaluation and research to develop a health and disability support sector committed to evidence-based clinical, management, policy and planning practice.

573. It also identifies the development of a Child Health Information Strategy (CHIS) as critical to the success of the *Child Health Strategy*. \$1.78 million was allocated in the 2000/01 budget.

574. New child health contracts and programmes increasingly require an evaluation component. Process and outcome evaluation is required as part of the contract between the Health Funding Authority and the health care service provider.

575. The National Review of Paediatric Speciality Services was a joint project of the Health Funding Authority and the Paediatric Society of New Zealand. This review is an integral part of the *Child Health Strategy* and aims to improve services for children with high health and disability support services needs. It was developed in close consultation with a wide range of child health care providers and practitioners and parents. The review has begun implementation by establishing a paediatric network, tumour panel, clinical guidelines and review of speciality areas. The recommendations of this report will be implemented over the next 10 years.

576. The Convention is one of the core documents referred to in the Strategy and underlies its intent and directions.

577. The health sector acknowledges that social and economic inequalities are powerful determinants of the health status of individuals and populations. Ranges of diseases are often viewed as “diseases of poverty”, for example rheumatic fever, tuberculosis and meningitis. Poverty and over-crowding, limited educational opportunities and multiple pressure on families all combine to make it more difficult to control the spread of infection. Other poor health outcomes are also associated with socio-economic inequalities, for example higher childhood hospitalisation rates and poor nutrition status. There is increasing concern within New Zealand about the rates of these diseases amongst children.

578. The health sector provides comprehensive health services for all people and works intersectorally at all levels to try to reduce socio-economic inequalities and their impact on health (for example Strengthening Families programmes - see paragraph 153).

579. A particular focus is to reduce the impact of inequalities on Maori and Pacific peoples by developing Maori and Pacific Primary Health Services. The Ministry of Health will develop a framework that identifies other ways the health sector can contribute to reducing these inequalities. This is consistent with the Closing the Gaps (see paragraphs 86-88) framework that the Ministry of Health will develop over 2000/2001.

580. The Government has continued to change the way funding is set up to deliver health services in New Zealand. In 1998, the four Regional Health Authorities (set up by the Health and Disability Services Act 1993 with responsibility for purchasing health and disability support

services) became one authority, the Health Funding Authority. This was to increase efficiency and consistency in purchasing health services. The extent of the services purchased for child health was not decreased in any way.

581. The Government is introducing a new framework and structure for delivering public health care in New Zealand. The New Zealand Health Strategy and the New Zealand Disability Strategy will provide the framework for a population-based approach to improving New Zealanders' health and well-being. To deliver the targets set within those strategies, the sector is being re-structured. The Health Funding Authority is to be absorbed into the Ministry of Health and funding will be devolved to 21 District Health Boards that are currently being established.

582. These boards will be responsible for working within allocated resources to improve, promote and protect the health of the population within their districts, as well as promote the independence of people with disabilities. This will require District Health Boards to consider all needs and services, including prevention, early intervention, treatment and support services and how these services can be provided to best meet the needs of the population.

583. In 1998 the Ministry of Health published *Our Children's Health: Key findings on the health of New Zealand children*. This report was used to inform the Child Health Strategy. It brought together all available statistics and research findings related to child health and provided an up-to-date account of the state of child health in New Zealand. It covered risk and protection factors relating to each area and, where possible, international comparisons (Annex 52).

584. Submissions showed concern for children with serious illnesses and the need for social workers to link parents with financial assistance. The Paediatric Society of New Zealand is developing Standards for the Welfare of Children in Hospital (Quality Standards DZ8140). These are still being drafted but when finalised will be widely distributed to health sector providers.

### **Data Collection**

585. In addition to *Our Children's Health* the New Zealand Health Information Service (NZHIS) is committed to providing accurate statistics and improving the ethnicity recording for morbidity and mortality statistics.

### **Infant and Child Mortality**

586. A proposed Mortality Review process is being considered. It will primarily focus on improving information on classes of death (including child) to improve the policy services' quality and make environmental changes to reduce mortality.

587. Please see the information provided about children's right to life, survival and development in paragraphs 278-295.

588. Submissions stated that children needing palliative care who wish to remain in their own home need support, including nursing help and special equipment. New Zealand is currently consulting on its draft Palliative Care Strategy that endorses the availability of support services to children to remain in their home. Access to assistance ranging from full nursing help and equipment currently varies depending on geographic location, regional variation, and the child's condition or disease. For example support is much more available to those with cancer than those with a disabling condition.

589. The Health Funding Authority's Travel and Accommodation Policy clearly outlines funding and responsibilities for those who need to travel outside their communities for health treatments.

### **Free health care for children under six years old**

590. In early 1997 the Government increased the subsidy level to general practitioners so all children under six years could receive free health care and prescriptions. This policy was aimed at overcoming cost barriers to young children receiving health care. Evaluation has shown an increase use of GP services, especially by more needy groups. The Ministry of Health is aware that a small number of GPs continue to charge for some visits for children under six years. This is not illegal, charging for visits is at the GP's discretion. The subsidy is sufficient for most consultations but not enough to cover some "after hours" visits. The question of ensuring affordable access to care will be addressed in the Government's forthcoming primary health care strategy.

### **New Zealand Health and Disability Strategies**

591. The current strategic focus of the Ministry of Health is on the development of a New Zealand Health Strategy and a New Zealand Disability Strategy. These strategies apply to all New Zealanders, including children and young people. Wide consultation has recently been undertaken on the New Zealand Health Strategy discussion document. A final strategy is due by November 2000.

592. The draft strategy provides an over-arching framework within which the New Zealand health sector will operate. It gives a series of fundamental principles that will guide the sector and need to be reflected in any new strategies. The underlying themes are:

- improving the population's health
- reducing health inequalities
- providing high quality.

593. It also lists population health objectives and sector priorities that reflect determinants of health as well as more "traditional" health focused objectives. Objectives particularly relevant to children and young people are:

- to further develop health-promoting schools

- to ensure adequate support for parents and young families
- to minimise harm caused by alcohol, illicit and other drug use to both individuals and the community
- to increase the level of physical activity
- to improve nutrition and reduce obesity
- to reduce the incidence and impact of violence in interpersonal relationships, families, schools and communities
- to ensure access to appropriate child health care and immunisation services.

594. The draft strategy builds on the eight Maori health gain priority areas which include asthma, smoking cessation, hearing, immunisation, oral health and injury prevention. The Maori Health Strategy (a component of the New Zealand Health Strategy) will be developed by the end of December 2000.

595. The draft strategy identifies priorities such as developing a Youth Health Strategy that fits under the overall framework of the New Zealand Health Strategy. The current *Child Health Strategy* also fits under this overall strategy. Policy work to develop a specific Youth Health Strategy will begin after the New Zealand Health Strategy is completed. Specific work will also be undertaken for rangatahi/ Maori young people. In the meantime, the Health Funding Authority is undertaking some preliminary work on youth health including a stocktake of services purchased for young people and a youth health status review. The Youth Health Strategy will be co-ordinated with the Youth Development Strategy Aotearoa (see paragraphs 148-149) and other closely related strategies, such as the *New Zealand Youth Suicide Prevention Strategy/Kia Piki Te Ora o Te Taitamakiki* (see paragraphs 287-289).

596. The draft Disability Strategy is currently out for consultation.

#### **Additional funds for child health**

597. In 1998 the Government provided additional services aimed at reaching children identified in the Child Health Strategy as having the highest health and disability support services needs. These additional services include home-based health services and school-based health services. In submissions, a group of young people from an NGO group felt that ongoing funding was a problem and that good programmes were falling over because of short term (one year) funding and their success depended on longer-term financial support.

#### **Appointment of a Chief Advisor, Child and Youth Health**

598. In 1997 a Chief Advisor, Child and Youth Health, was appointed in the Ministry of Health to oversee, co-ordinate, motivate and lead in the area of child health. A primary task is to lead the Child Health Strategy implementation.

### **Maori/Pacific health initiatives**

599. The Government has a strong commitment to improving health and reducing health disparities and it has an inter-sectoral work programme to address these and other disparities. The 2000 Budget specified funding for Maori health provider development, Maori smoking cessation programmes and Pacific health provider development. There were substantial increases in some area, particularly mental health services and elective surgery that will benefit Maori and Pacific peoples but most of the funding is for mainstream secondary services so it is hard to quantify the full impact for Maori and Pacific people.

600. There is an increasing emphasis on health services being provided by Maori and Pacific providers. Some of these services are whanau/family based, and others, such as well-child services, are child focused. Providers responding to surveys carried out during the development of the Child Health Strategy stressed the importance of providing culturally effective health services that are acceptable to the populations they serve. Accompanying the development of culturally effective services are government funded workforce development initiatives.

601. Many Maori communities are also developing solutions to a range of health and welfare issues. It should be noted that although diverse, the solutions share a number of key characteristics, they are:

- holistic
- whanau/hapu/w/community driven
- strength based
- address community priorities for services
- based on kaupapa/tikanga Māori.

### **Consent in child and youth health**

602. In 1999 the Ministry of Health published *Consent in Child and Youth Health: Information for Practitioners* (Annex 32) which draws together a range of legislation relevant to consent in child and youth health and gives advice about best practice. The aim of the document is to make information about consent issues for children and young people in health care widely available to child and youth health practitioners of all disciplines.

603. This publication uses the Convention as a starting point for issues related to consent of children and young persons to medical assistance.

## Health Camps

604. Legislation to repeal the Children's Health Camps Act 1972 (referred to in paragraph 219 of the *Initial Report*) came into force on 1 April 2000. Repeal of the Act allows the Health Camps movement to incorporate as a private charitable trust and develop a more innovative range of services for children and families within a more flexible governance and administrative framework.

## Child and youth mental health initiatives

605. Submissions expressed concern that access to mental health services for adolescents are not adequate. The mental health of children and young people has been major focus of health planning and spending since the presentation of the *Initial Report* in 1997. In 1998, the Ministry of Health's *New Futures: a Strategic Framework for Specialist Mental Health Services for Children and Young People in New Zealand* (Annex 53) has provided guidance for the developing specialist child and youth mental health services. At the end of 1998 the Mental Health Commission's *Blueprint for Mental Health Services in New Zealand: how things need to be* (Annex 54) also highlighted the needs of children and young people with severe mental health problems and identified a range of age related access targets to specialist mental health services.

606. Since then, there has been major growth in specialist mental health services for children and young people, and this growth will continue. The Health Funding Authority's *He Nuka mo nga Taitamariki: A national workplan for child and youth mental health services* (Annex 55) guides the new District Health Boards on how to prioritise funding for the next three years to move towards meeting the Mental Health Commission's blueprint benchmark figures. It set priorities within the child and youth mental health sector for Maori tamariki, rangatahi and their whanau, Pacific children and families, children and young people with severe problems and high need, and children and young people with drug and alcohol dependencies.

607. Currently there are specialist child and youth mental health services (CAMHS) available in each of the 21 hospital and health service areas. While each has a primary site, many also have outreach services or satellites to improve access to more rural areas. As well as providing direct assessment and treatment services for people with severe mental health problems, CAMHS provides consultation/liaison services to primary providers and other sectors working with children and young people with mild/moderate mental health problems.

608. Guiding practitioners on assessing and treating children and young people diagnosed as having Attention Deficit Hyperactivity Disorder (ADHD) was one of the recommendations of the Paediatric Speciality Services Review.

609. The Ministry of Health and the Health Funding Authority are developing Guidelines for the Management of Children with ADHD to ensure that children suspected of having ADHD are given appropriate assessment and treatment.

## **National Drug and Alcohol Policy**

610. In 1998 the Ministry of Health's National Drug and Alcohol Policy was published as a five year plan to prevent and reduce substance abuse-related harm. The policy focuses on young people as one of the populations. A Ministerial Advisory Committee has been established to review progress on implementing this policy. An inter-agency committee ensures that goals are consistent across agencies (see paragraphs 945-967).

### **Reduction of "glue ear"**

611. Pacific and Maori community ear health workers have been contracted to provide tympanometry services to kura kaupapa (Maori language total immersion schools), bilingual units, kohanga reo (Maori language pre-schools) and pacific language nests. They also work with the mobile ear van and static outreach clinics in high risk areas, as well as education sessions on ear health to families and groups. Children referred to their service have individual ear health management plans developed. Eventually, the screening work will be handed on to vision hearing testers.

612. Whakarongo Mai courses run by the National Audiology Centre, are designed to support the Well-Child programme by training Maori providers to learn to detect and refer children who have middle ear disorder, for treatment. These programmes are relatively new and are yet to be evaluated, although existing mainstream programmes have not been evaluated either.

613. Almost 100 percent of five year olds are screened for hearing loss, and most of those children who are detected with hearing loss at this age are likely to suffer from glue ear (persistent otitis media with effusion). The number of children detected with hearing loss has not declined significantly and is a particular concern among Maori and Pacific children. Reducing glue ear depends on health promotion, primary prevention activities and ensuring that children with upper respiratory tract infections have access to and obtain appropriate medical care. On a one-off basis, child health funds were made available to selected hospitals in 1998 to help clear waiting lists for assessment and surgery, including ear, nose and throat assessments and treatment.

### **Strengthening Families Initiatives**

614. The Ministry of Health is one of three agencies leading the Strengthening Families initiative. Children included in the Family Start intensive home-based programmes will benefit from the support and information their families receive to access routine and episodic health care. Evaluating Family Start includes a range of health related measurements (see paragraphs 402-404).

### **Family Service Centres**

615. In 1993, Family Service Centres (FSCs) were established to provide health, education and welfare services to "at risk" families with children under six years. It aims to break cycles of

inter-generational disadvantage and improve the ability of families to be self-reliant. FSCs were based on a “one-stop-shop” model where services are integrated, targeted and located within a community where the need for services was high.

616. FSCs are operating in six locations, all operating early childhood education services, HIPPY and family social services. Some sites are co-located with health care services or other services (eg, citizens advice bureau).

617. An evaluation of FSCs was completed in 1997. However, methodological problems meant the results were only indicative. Overall, the results showed merit in the “one-stop-shop” approach. The evaluation found that the model may not be suitable for communities with a high number of non-target group families and may need some modification for rural-based communities.

### **Immunisation**

618. Data on immunisation coverage continues to be incomplete, leading to uncertainty about coverage rates. Data collected from various sources indicates that coverage rates have not reached the targets set in the 1995 National Immunisation Strategy (Immunisation 2000)(Annex 56).

619. This strategy comprises five elements:

- a simplified immunisation schedule
- introducing the immunisation certificate for primary schools and early childhood centres
- standards for immunisation providers
- local immunisation co-ordination
- improved immunisation surveillance.

620. These have all been implemented to date with the exception of comprehensive immunisation surveillance. From June 2000 all claims to Health Benefits Limited for government reimbursements for immunisations have to be made electronically using the child’s National Health Index number. This should yield accurate information including coverage levels and breakdown by ethnicity.

621. The HFA is implementing systems to collect reliable coverage data, and primary care contracts now require immunisers to have local recall systems in place. Other child health initiatives aimed at improving disadvantaged populations’ access to health care will also have a positive impact on immunisation rates. New Zealand has reset a target to attain 95 percent immunisation coverage by 2004.



622. A child health information strategy and a New Zealand health knowledge strategy will eventually provide robust data regarding immunisation that will be useful to both policy makers with regard to monitoring coverage rates, and to providers to allow for follow-up of children who may not have received all their immunisations.

### **Pre and post-natal health care for mothers**

623. In 1999, the National Health Committee (an independent advisory committee set up under the Health and Disability Services Act 1993) reviewed maternity services to provide an opportunity to improve the safety and quality of maternity care for New Zealand women. The review found high levels of satisfaction and no evidence to recommend major changes. However, it did identify important areas that need to be improved and the report contains a range of recommendations to ensure quality services for all women and babies.

### **Health education, preventive health care and family planning**

624. The Ministry of Education has developed a new curriculum - *Health and Physical Education in the New Zealand Curriculum* (Annex 57). This is now the core statement for the essential learning areas' health and physical well-being and will replace the existing health, physical education and home economics syllabuses. It sets a clear direction to guide schools as they plan programmes to address the critical health and physical education issues facing children and young people in New Zealand.

625. The curriculum is underpinned by four concepts:

- well-being (hauora)
- health promotion
- the socio-ecological perspective
- the importance of attitudes and values that promote hauora.

626. The key areas of learning are:

- mental health
- sexuality education
- food and nutrition
- body-care and physical safety
- physical activity

- sport studies
- outdoor education.

627. The new curriculum will be mandatory from the beginning of 2001. Professional development education for teachers is also being provided on the new curriculum.

### **Sexual and reproductive health**

628. The Ministry of Health and the HFA have been directed to develop a more comprehensive sexual and reproductive health strategy that will include:

- sexual and reproductive health services as a public health service
- a comprehensive free specialist sexual and reproductive health service close to the community
- sexually transmitted disease control to ensure that at risk groups have access to effective education programmes
- disease control of HIV/AIDS as a sexually transmitted disease
- an emphasis on effective and available services for Māori, Pacific peoples and young people.

629. The HFA is completing a stocktake of existing services as the first step which should be completed by the end of 2000. The Minister of Health has agreed that nurse prescribing will extend to sexual and reproductive health and work is being done to progress this.

630. Supplying contraceptives and related advice is regulated by the Guardianship Act 1968. Section 25(1) of the Guardianship Act 1968 provides that “the consent of a child of or over the age of 16 years... to any medical, surgical, or dental procedure to be carried out on him for his benefit by a person professionally qualified to carry it out, shall have the same effect as if he were of full age”. Accordingly a person between 16 and 19 years can give valid consent to medical treatment, including contraceptive treatment and advice.

631. The position is different for children under 16 years. Section 25(3) of the Guardianship Act provides that certain persons (usually a parent or guardian) can consent to medical treatment in respect of a child in cases where such a consent is “necessary or sufficient”. The provision does not, however, prohibit persons under 16 from consenting in their own right. For guidance as to whether or not parental consent is “necessary or sufficient” for persons under 16, one turns to the common law rules.

632. In 1977, the Royal Commission of Inquiry into Contraception, Sterilisation and Abortion took the cautious approach of assuming that the common law would require parental consent for medical treatment of children under 16 years. However, the more generally held view now is

that children under 16 years can consent to medical treatment, depending on the circumstances. The leading case in this area is the decision of the House of Lords in *Gillick v West Norfolk and Wisbech Area Health Authority* [1985] 3 All ER 402.

633. The Gillick case concerned the provision of contraceptive advice to girls under 16 years without first obtaining parental consent. The decision of the House of Lords canvassed broad principles about parental rights and the legal capacity of minors before concluding that the common law did not prohibit a girl from consenting to contraceptive advice or treatment without her parents' knowledge or consent.

634. With respect to various forms of medical treatment, the effect of Gillick is that a child's consent can be sufficient if they are mature enough to understand fully what is proposed and decide whether to accept the treatment. The age of the child and the nature of the treatment are relevant factors in making this assessment.

635. While the capacity of a person under 16 years to consent to medical procedures has not subsequently been tested in the New Zealand courts, commentators consider that it is most likely that the law as stated in Gillick would apply in New Zealand.

636. In relation to sexual and reproductive health, there has been a change in the way data about sexually transmitted infections (STI) is collected. Since 1997 the Institute of Environmental Science and Research has collected data from STI clinics, the Family Planning Association, student health services and general practitioners. Improved data collection should give more accurate rates.

### **Sexuality education**

637. New Zealand has a high rate of teenage pregnancy. In 1998 there were 1245 live births to mothers less than 18 years, a rate of 9.5 per 100 females aged 13-17 years, compared to 11.8 per 1000 in 1995. In 1998 the fertility rate for Maori females aged 13-17 years was 26.2 per 1000, more than five times that of non-Maori (4.9 per 1000). There is a range of public views on the merits of sex education. For some people a change in the law to make sex education compulsory would be an important step in bringing down New Zealand's high rate of teenage pregnancies.

638. Section 105D of the Education Act 1964 concerns only "sex education" information conveyed in schools, and does not limit children's ability to access information and support elsewhere (eg, from the Family Planning Association or their doctor, or outside of the classroom environment, such as a school counsellor). (See paragraphs 324-326.)

### **Smoking and tobacco consumption**

639. New Zealand has experienced an increase in youth smoking that mirrors an international trend. In 1999, 14-15 percent of 14 and 15 year olds were daily smokers. The multimedia public education campaign Why Start? ran from 1996 to 1999. There has been increased enforcement

of the ban on sales of cigarettes to minors, more smoke-free sponsorship of sporting and cultural events, and more smoke-free school programmes. In 1997, the Smoke-free Environments Amendment Act banned:

- sales of tobacco to people under 18 years
- sales of “kiddie packs” of 10 cigarettes
- sales of single cigarettes.

640. In May 1998 and May 2000 the tax on tobacco products was increased. Other initiatives include the HFA national Quit Smoking Line and the Smoke-free Environments Regulations 1999 which require larger, stronger health warnings to appear on tobacco packets from early 2000.

### **Health Promoting Schools**

641. Comprehensive health promotion activities in the schools have continued to be encouraged. The Healthy Schools measures referred to in the *Initial Report* (see paragraph 236) are now known as Health Promoting Schools. An increasing number of schools, supported by health agencies, are using a Health Promoting Schools approach when considering health issues.

642. A three year Health Promoting Schools pilot has recently been completed. It involved health services working in the Northland and Auckland region intensively with two schools, less intensively with clusters of 20 schools, and on a regional basis with 36 schools. This was in addition to the usual involvement of health services within schools.

643. The pilots have been evaluated throughout the three years and the final evaluation report is nearly complete. A wide range of preliminary recommendations has been made which have formed the future direction for Health Promoting Schools. The HFA has integrated the outcomes of the evaluation into new contracts. These include the intensive work on the pilot programmes, including:

- refocusing to include a strong Maori and mental health focus
- health agencies working less directly with schools and more support through professional development and networking
- ensuring sustainable programmes within schools
- expanding to other schools
- increasing training opportunities
- establishing regional co-ordination throughout New Zealand

- establishing a multi-sectoral working party to set up a New Zealand Health Promoting Schools Association
- establishing a strategic Maori advisor position.

644. Schools will be encouraged to address mental health issues through integrating a mentally healthy schools approach, professional development nationally for all Health Promoting Schools providers, and then follow up support from the Mental Health Foundation and others.

### **Youth health services**

645. There are a number of health issues particularly important to young people. These include sexual and reproductive health, mental health and alcohol and drug abuse. The importance of providing specialist health services for young people has been recognised and there are now several health services operating specifically for young people throughout New Zealand. An increasing number of specialist youth mental health services have been established.

646. The HFA has recently established several secondary school-based GP clinics. Many of these clinics are in rural schools in low socio-economic areas with a high proportion of Maori students. Other clinics are in schools in low socio-economic urban areas.

647. Youth one-stop-shops refers to a range of health, social, justice, and education services for young people usually provided on one physical site. The health services are predominantly primary health care and some specialist outpatient clinics. In some cases they have peer counselling. The range and variety and level of services vary from area to area and most are small given the population that they serve.

648. The concept of youth specific one-stop-shops has been accepted as a way to improve young people's access to health services. A report published by the Ministry of Youth Affairs *Under One Roof: a review of one-stop-shop health services for young people in New Zealand* (1998) (Annex 58) found that:

- the one-stop-shops catered for young people between 10 and 25 years
- they are usually established in areas where young people are known to congregate, making them both visible and accessible
- young people are actively involved in planning and implementing the services by working as peer educators or being advisors to the organisations that provide the services.

649. Most one-stop-shops provide a range of services on-site that cater for young people's needs in the broadest sense. These include:

- clinical services (nursing and general practice)

- specialist services (sexual health, contraceptives, alcohol and drug, mental health)
- counselling and referral to external specialist services
- advisory and information needs (covering health, education, justice, income support).

650. Some one-stop-shops also provide recreation facilities including pool tables, art and drama, as well as holiday programmes. In 1998 there were eight one-stop-shops operating around New Zealand.

### **Road traffic injuries**

651. Road traffic injuries remain a significant cause of mortality and morbidity among young people. Submissions stated that instead of putting all the money into adult-focused road safety priorities, the best interests of the child need to be applied in terms of improving safety for pedestrians and cyclists.

652. Young drivers are over-represented in minor, serious and fatal crashes. Figures from driver licence statistics and crash reports indicate that 15 to 19 year old drivers make up to 8 percent of the licensed population. Yet between 1997 and 1999 this group accounted for 14 percent of drivers involved in minor and serious crashes, and 11 percent of those involved in fatal crashes. Between 1995 and 2000, 581 children between 0 and 19 years died on the roads.

### **Road Fatalities 1995-1999**

Ages	1995	1996	1997	1998	1999
0-14	51	46	45	46	29
15-19	82	102	75	76	75

653. A number of public education campaigns have been run to raise awareness about the use of car-seats for children, safety belts and road safety.

654. Every child under five years must be properly restrained by an approved child restraint when travelling in cars and vans. Children between the ages of five and seven years must have an appropriate child restraint if one is available or use an adult safety belt. Older children must use a safety belt if available and, if no restraint is available, they must travel in the rear seat. It is the driver's responsibility to make sure all child passengers are correctly restrained. In September/October 1999 a national survey of child restraint use in New Zealand showed overall use of child, infant and booster seats and child harnesses by children aged zero to 4 years was 75 percent, approximately the same as the previous year (76 percent in 1998). Of the 51 percent of children restrained in child seats, 18 percent were in booster seats and 6 percent were in infant seats. A further 11 percent were restrained by safety belts. The remaining 14 percent were not restrained, including 2 percent who were held on other passengers' knees.

### **C. Social security and child care services and facilities (articles 26 and 18)**

655. There have been some changes to the framework for delivering social security in New Zealand (see paragraphs 244 to 260 of the *Initial Report*).

656. Submissions pointed out that young people have to reach a higher threshold than adult applicants to qualify for welfare benefits and that criteria for benefits are not “youth friendly”.

657. Persons under 16 years are not entitled to social security benefits. However, there is limited eligibility for 16 to 17 year olds in special circumstances. This includes the independent youth benefit payable to 16 to 17 year olds who cannot reasonably be expected to live with their parents or be financially supported by their parents. This may be payable to a 16 to 17 year old who is at secondary school, is unemployed or incapacitated due to sickness, injury or disability. Other benefits that may be available to this age group include the invalids benefit and the emergency benefit.

658. The rationale for the general rule that 16 to 17 year olds are not eligible for social security benefits is that parents have an obligation to financially support their children until they reach 18 years. To support this, the government provides assistance for low to middle income families with dependent children. A higher rate of family support is payable for 16 to 17 year old dependent children. From 1 January 1998 the age of eligibility for some benefits was increased from 16 to 18 years. Part of the rationale for this was to remove financial incentives for young people to leave school.

659. A child support assessment is required when a custodial parent applies for a social security benefit paid at a single parent rate. Failure to identify the liable parent, without good reason, results in a reduced amount of benefit. Therefore, a person under the age of 16 years who is a liable parent may be identified as having a child support liability. A 16 to 17 year old who is granted a benefit, and who is a liable parent, will be required to make the minimum \$10 weekly child support contribution from their benefit.

#### **Child Tax Credit**

660. The Child Tax Credit (CTC) was introduced in July 1996 (and increased in July 1997) primarily to assist low to middle income working families. Part of the rationale for restricting access to families who are not receiving a main form of state financial support was to improve financial incentives for some beneficiaries to move into paid employment. For many families, the CTC widens the gap between the after tax income while receiving a benefit and the after tax income from paid employment. Submissions criticised using the Child Tax Credit as a means of supplementing family income because it was difficult to administer since it requires a family to be independent of the state, which means eligibility is constantly changing. It was also criticised for not meeting its goals of providing a work incentive

661. Improving the CTC administration and the other tax credits available to non-beneficiary families (family tax credit and parental tax credit) are focused on increasing awareness that this assistance is available. The Department of Work and Income (DWI) is proactively providing

beneficiaries with advice on assistance they may be able to receive if they have left the benefit for paid employment. This includes tax credits that may be available and how to apply for them. It is anticipated that access to full information may influence the decision of some beneficiaries to leave the benefit for paid employment.

### **Unsupported Child's Benefit**

662. The Unsupported Child's Benefit (UCB) allows the principal caregiver of a child to receive a benefit to care for the child where there is no natural, adoptive, or step-parent to do so. This benefit extends to all children and young people. Equalising payments to foster carers facilitates permanency planning and provides an opportunity for children and young people in care to form a secure attachment to their foster family. Child, Youth and Family and DWI have developed a protocol to ensure that when a child or young person is discharged from Child, Youth and Family's care into the permanent care of their foster parents, those parents are assisted in their application for the UCB.

663. The Convention was not explicitly referred to in the policy development, however, the impact on children was assessed during the policy development phase.

### **Childcare services**

664. Submissions showed concern that both parents are "nowadays" required to work to support their family. Related to this were calls for more flexibility from employers to allow a parent time off to be with a sick child and affordable day and after school care.

665. The Government has considered the current framework of providing childcare services. The Ministries of Social Policy and Education have developed a project to review the government's role in childcare, including identifying gaps and developing a work programme to address those gaps. To date, the Convention has not been used in the project development.

666. A proposed future work programme for childcare has been referred to the Social Policy and Health Cabinet Committee for approval. The plan focuses on how providing childcare can support the Government's employment goals, while recognising that childcare also contributes to education and welfare outcomes. It considers the role of the government in providing childcare along with the roles of local government, business, communities, whanau, hapu and iwi.

667. The childcare work programme will consider the unique childcare needs of Maori and Pacific people and the best way to address them including the supply of both early childhood and out of school care services that are delivered in a culturally appropriate way.

### **Childcare survey**

668. Statistics New Zealand conducted a survey of childcare (Annex 43) in 1998 for the Department of Labour and the National Advisory Council on the employment of Women (see paragraphs 420-429).



### **Domestic Purposes Benefit**

669. The Government has a priority to improve the life outcomes of teen single parents on the Domestic Purposes Benefit (DPB) and therefore their children. A project on teen single parents has been developed which focuses on increasing their chances of sustainable employment through a range of assistance measures, including education and training. The DPB and the Widows Benefit are currently under review.

670. A project plan that considers the wide social and environmental issues faced by teen single parents is currently being developed by the Health, Education and Social Policy Senior Officials Group.

### **D. Standard of living (article 27)**

671. Information about the economic circumstances of children is contained in other parts of this report (in particular, see paragraphs 196-216, 1064-1073).

672. New Zealand remains a developed country with a high standard of living. Paragraphs 266 to 272 of the *Initial Report* set out the legislative framework for securing the standard of living for children and young people in New Zealand.

673. However, there is evidence that income inequality rose in the 1980s and 1990s (as noted at paragraph 206), and as wages and salaries are the most important source of income for households with children, there are concerns about the standard of living for some children in New Zealand.

674. The growth in inequality has slowed in the reporting period. Paid work continues to be the most important source of regular income for most parents. Changes in the economic climate have influenced parents' participation in the labour force and the financial situation experienced by many families with children. Particularly, parents not living with a partner often face financial hardship and there continues to be an increasing proportion of children with parents in this situation.

675. Statistics New Zealand has identified clear relationships between family income and other social, demographic and economic characteristics of children. Income characteristics are examined by a number of family characteristics such as the number of parents a child lives with, the age group of the child, ethnic group, tenure of the family home and the extent to which children in families share their dwelling with others. A comparison of family incomes is contained in *New Zealand Now: Children* (Annex 17).

676. More detailed information on the economic circumstances of children is contained in *New Zealand Now: Children*. The census data in this publication shows that the structure and lifestyle of New Zealand families has changed substantially over recent decades. Today's families are smaller and many parents are older when their first child is born. However, Māori women still continue to have children at a younger age than non-Māori. Additionally, more children are now living with just one parent. Changes like these can have major implications for parent's participation in paid work.

677. Children living with one parent are much more likely to be in low-income families than those living with two parents. A total of 55.6 percent of children in one-parent families were in the lowest family income quintile in 1996. Younger children and those of Māori and Pacific ethnicity were also more likely to be in low-income families. (Quintiles are calculated by ranking the family incomes of all children from the lowest to highest and dividing the ranked income into five equal sized groups.)

678. Submissions commented about how the economic changes have affected families and children and in particular, the importance of housing and employment in the quality of children's lives. For example some concerns include:

- changes in state house rentals to market rates had a major affect on children in low income families (this policy has now been reversed)
- high rents, water and electricity costs cut into the food budget, resulting in nutritional deficiencies that research shows affects children and adolescents
- the increasing trend towards fees for schools and early childcare, as well as fees for sports mean that some children are missing out.

679. The Government recognises that an appropriate balance between participation in paid work and parenting must be maintained. For parents receiving benefits, the following criteria and concessions are applied:

- since February 1999 a part time work test has been extended to recipients of the DPB, widows benefit and spouses of beneficiaries who have a youngest child aged six to 13 years. A full time work test applies once the youngest child reaches the age of 14 years
- the work test does not apply until the youngest child reaches school age
- the full time work test does not apply until the youngest child reaches an age where it is generally regarded that they require less intensive supervision
- the Social Security Act 1964 provides that a work tested beneficiary accept any offer of suitable employment. In determining suitability, child care responsibilities and family circumstances are considered
- a DPB or widows beneficiary, or spouse of a beneficiary who would be subject to the work test, may apply for an exemption on the following grounds:
  - they are the principal caregiver of a child with special needs (includes a child with a medical condition, physical or intellectual disability or behavioural difficulty)
  - they are actively involved in home schooling a dependent child who has been granted an exemption from enrolment in school.

- the Social Security Act 1964 provides that a work tested beneficiary with at least one dependent child has a good reason for not participating in an employment-related activity if the activity involves participation during hours which it would be unreasonable to expect any dependent child of that person to be without supervision.

680. As noted in paragraphs 196-216, the Government is monitoring the impact of the economic reforms on children through a number of different projects:

- the Treasury has worked on low income families
- the National Health Committee has compiled information on the determinants of health attributable to the economic reforms
- the Ministry of Social Policy is looking at a household living standards scale as part of a living standards research programme.

681. Further information will be provided to the Committee when this report is presented.

## **PART 7: EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **Introduction**

682. Part 7 reports on education, including vocational training and guidance and the aims of education. It also covers leisure, recreation and cultural activities. Measures to help all children enjoy their education rights are described, including literacy initiatives, strategies for Māori and Pacific children, and services for students with disabilities.

#### **A. Education, including vocational training and guidance (article 28)**

683. The basic structure of New Zealand's education system has not changed (see paragraphs 273 to 276 of the *Initial Report*).

#### **Costs to families of education**

684. State schools are not permitted to charge fees. In subjects with a practical component such as clothing and workshop technology, a board may charge for materials where the end product belongs to the student, and it may, if paid for, be taken home. Reasonable travel costs for field trips may also attract a fee. Schools may invite donations but these are entirely voluntary.

685. Each early childhood education service decides the level of fees that they charge. For fee-charging centres, a fees subsidy is available to eligible low income families from DWL.

#### **Measures to ensure children are taught in local, indigenous or minority language**

686. There are a variety of measures to ensure children are taught in local, indigenous or minority language. There are a number of Maori language schools and a number of initiatives are being implemented to improve Maori language and teaching (see paragraph 691). There are also a number of initiatives for Pacific children (See paragraph 703).

#### **Measures to ensure access for all children**

687. The Education Act 1989 provides that every New Zealand citizen between the ages of five and 19 has a right to free education. There are a variety of measures to give effect to this right detailed in this part of the report.

#### **Literacy**

688. In 1999 the Government set a goal that "By 2005, every child turning nine will be able to read, write, and do maths for success". Literacy and numeracy taskforces were established to develop strategies for achieving this goal. The new Government has advanced from this goal, instead looking at tangible changes that can be made to literacy and numeracy levels.

689. As recommended by the taskforces, work is being done to develop literacy/numeracy materials. Funding has been allocated to:

- make teachers aware of the materials and ensure their effective use
- support teachers with high-quality teaching and learning materials
- provide additional materials to guide teachers on how to implement the full range of strategies associated with literacy instruction in classrooms.

690. These extra materials will help raise student's literacy achievement as well as close the gap between the highest and lowest achievers. One hundred and twenty one positions for Resource Teachers: Literacy are being established to provide itinerant specialised literacy teaching for children in Years 1 to 8 who are most at risk of failing to learn to read and write for success.

691. Some positions will be designated Resource Teachers: Literacy (Maori) to work predominantly in Maori medium education (including kura kaupapa Maori). This responds to the Literacy Taskforce's recommendation to establish a nationally co-ordinated system of literacy interventions targeted at those most in need, building on existing interventions including the Resource Teachers of Reading. The existing 68 Resource Teachers of Reading positions will be reassigned within the 121 total Resource Teachers: Literacy positions.

### **Maori students**

692. Submissions raised issues about access for young Maori to a school system that works for them. Comments included that research is showing up a "major systems failure for Maori in New Zealand schools". This was not just a case of certain schools not delivering, but of bigger policy issues. "Potential is being snuffed out within the school system from very early ages." There needs to be research focusing on system failures rather than the failures of individuals. "We need to ask how the system is not working rather than why individuals are not working in the system."

693. Retaining children and young people in schools has remained a focus, particularly for Maori. Historically, Maori have been over-represented among early school leavers. Between 1984 and 1995, the proportion of Maori who were 16 years old and still in secondary school improved substantially from 48.8 percent to 72.4 percent. Since then there has been a downward trend in Maori retention whilst non-Maori retention has increased steadily. As a result, the disparity is now comparable to that in the mid 1980s. Retaining students, especially Maori students, is something that must be tackled by schools, students, the Government and whanau. Everyone involved must work in partnership and no one group is likely to improve retention on its own.

694. The downward trend in the proportion of Maori students leaving school with no qualifications has stalled. While the proportion of Maori leaving school with a sixth or seventh form (Year 11 or 12) qualification has almost trebled since 1977, comparable improvements for non-Maori mean that the disparity between the two groups is largely unchanged. In 1999, an

estimated 69 percent of 16 year old Maori students (6,500), 43 percent of 17 year old Maori students (4,000) and 11 percent of 18 year old Maori students (1,100) remained at school. The percentages of Maori students remaining at school are considerably lower than non-Maori (88 percent of 16 year olds, 68 percent of 17 year olds and 17 percent of 18 year olds).

695. In addition, Maori students who remain in school to senior levels are less likely than non-Maori to sit national examinations and, when they do, are less likely to achieve high grades. In 1997, 20.9 percent of all Maori that left school in 1996 went directly into formal tertiary education, compared to 42.7 percent of non-Maori. This overall disparity has remained the same.

696. However, Maori are almost five times more likely than non-Maori to enrol as trainees in Training Opportunities Programmes (TOPs) which are predominantly short-term core competency training courses. In 1999, 40.2 percent of Maori students attended a polytechnic, whereas, non-Maori were more likely to be enrolled at a university.

697. A Maori education strategy is being developed which aims to lift achievement and reduce disparity (amongst other things). It has been developed to support a focus on providing high quality education to enable Maori students to achieve their full potential. As part of the approach, a professional development programme for school staff is being developed to help them implement good practice in teaching Maori students. The Maori Language Education Plan is part of the strategy and focuses on increasing opportunities to learn Maori, improving language proficiency, and fostering positive attitudes toward the Maori language. The ultimate aim is to meet the demand for Maori education in the early childhood and school sectors.

698. Some Maori aged 16 to 18 chose to study at tertiary institutions instead of school. In 1999, around three-quarters of Maori aged 16 were in school or tertiary education. Similarly, just over half of all 17 year old Maori and just over a third of 18 year old Māori were also in school or tertiary education.

699. There are four broad strategies to make education work for young Maori:

- Providing programmes to retain young Maori in school. For example, Budget 2000 includes commitments to establish study support centres and mentoring programmes. The study support centres (see paragraph 796) will encourage primary-aged students at risk of under-achievement to develop good study habits. The centres will provide after-school educational support in high needs schools. The objective is to establish between 130 and 260 centres by July 2001, with an additional 40 to 80 centres the following year. The mentoring programme will be underway in the near future.
- Supporting innovations and trialing new initiatives. The innovations pool (see paragraphs 801-803), for example, is aimed specifically at trialing innovative programmes for at-risk students and disseminating the experience to other schools. A commitment was made in Budget 2000 to increase this funding pool.

- Developing policies and providing programmes that bring young Maori back into learning, including alternative pathways to learn and second-chance learning opportunities. For example, in 1999, 73 percent of students in the Alternative Education Programme were Maori. Budget 2000 created an additional 620 places from term three and 200 more from term one in 2001, taking the total places to 1,820.
- Developing iwi education projects that explore more inclusive ways to support Maori students, particularly through closer links with whanau.

700. Barriers to success for Maori students include:

- a lack of suitable counselling, academic support, and an understanding about future pathways to academic success and employment
- for many students, low family income prevents families accessing culturally supportive schools with a record of success for Maori.

701. Under a Maori Participation Initiative announced in Budget 2000, a total of \$11.228 million over four years has been allocated to support Maori students through:

- mentoring support to at-risk Maori secondary school students in ways that encourage their success at school and transition to further tertiary study
- financial assistance for Maori students to attend state schools that will enhance their participation and success.

702. There is also a wide range of commitments to ensure the quality of school improves that relate to principal leadership, teacher capability and board of trustee capability. Priorities are:

- lifting the expectations and capabilities of teachers of Maori students
- getting the most effective teachers in front of the Maori students who need them most
- lifting professional leadership
- getting schools focused on literacy and numeracy
- increasing the numbers of Maori teachers
- ensuring that schools are capable of providing strong early learning foundations for young Maori children who do not have these skills.

703. There are also initiatives being undertaken to support the growth and strengthen the quality of Maori language education. A total of \$19.969 million has been allocated over the 2000 to 2004 period.

704. This initiative includes:

- additional Maori language teaching and learning materials in the seven essential learning areas (for primary and secondary levels) as well as for early childhood
- additional community based initiatives to support Maori language education using existing iwi education project structures to pilot local development of Maori language teaching and learning materials reflecting local dialects; and steps to boost parents' language skills so they can support children's learning of Maori and in Maori
- assistance for schools in developing policy, materials and curriculum documents to support learning in the classroom.

705. Initiatives to Improve the Quality and Responsiveness of Education for Maori were also announced in the 2000/01 budget (total of \$10.4 million over four years). This initiative includes:

- expanding the number of iwi education schooling improvement projects - formal partnerships now exist with Tuhoe, Ngati Porou and Te Reo o te Tai Tokerau and Tuwharetoa. These projects see Ministers, the Ministry of Education and iwi working to raise achievement for children in each rohe (area). They bring Maori into the process of Government to influence the quality of policy. They enable Maori to more successfully engage and influence the provision of education in ways that much better meet their aspirations and needs.
- Piloting new approaches to professional development for teachers working with Maori in the mainstream - over 80 percent of Maori school aged students are in the mainstream of education (ie, are taught in English). The ability of principals and teachers to meet the needs and aspirations of Maori in education is critical to closing the gap in education disparities between Maori and non-Maori.
- Establishing a Reference Group on Maori Education to inform Ministers and policy development.

706. A Maori Tertiary Education Strategy, to be implemented over the 2000-2002 period, will develop co-ordinated approaches to raise participation and achievement of Maori in tertiary education. Specialist resources are needed to complement core tertiary policy staff to develop the package and undertake consultation. This strategy will contribute to empowering Maori communities to build their own capability in providing tertiary education, and increasing support for those who have left school without basic skills, especially literacy.

### **Pacific students**

707. *The Ko e Ako a' e Kakai Pasifika* (Annex 59) plan, which covers the period January 1997 to October 1998, contains policy initiatives across all sectors of education and aims to provide a cohesive and co-ordinated approach to increasing the participation and achievement levels of Pacific students. The plan is currently under review.



708. As part of the strategy, the Samoan language curriculum (*Ta'iala mo le Gagana Samoa i Niu Sila*) is now available as a School Certificate subject. The *Pacific Teacher Supply Strategy* aims to increase the number and proportion of Pacific teachers. Having more teachers as role models, with culturally appropriate teaching styles, will contribute towards improving Pacific student achievement and the fit between schools and Pacific peoples.

709. Improving the teaching of Pacific languages is an important part of the Government's aim to improve the educational achievement of Pacific students. To increase the number and proportion of Pacific teachers a total of \$3.584 million over four years has been allocated in Budget 2000. Increasing the number of Pacific teachers will help ensure schools are responsive to Pacific students. Also, materials for teachers are being developed to support teaching Pacific languages (Samoan and Cook Islands Maori).

710. Participation by Pacific peoples in tertiary education is lower than the general population. There is a strong need for the Government to identify barriers more rigorously to address them and help close the participation gap. Research on education patterns and removal of barriers for Pacific peoples is planned for the 2000-2002 period. This research will provide a rich source of data to inform future policy making in this area.

### **Students with disabilities**

711. Submissions expressed concern that special education services are not reaching all the children who need it because special education units were disestablished. At the moment only those most at risk are receiving assistance.

712. Some submissions raised access issues for children with a disability. In some cases they are being denied enrolment, or if they are allowed into schools they are being denied full participation. Lack of support is cited by schools as the reason, but people who work in the field believe it is really a lack of commitment to a policy of no discrimination against those with a disability.

### **Special Education 2000**

713. Special Education 2000 (Annex 60) is a policy that aims to more effectively help children with special needs realise their educational potential. Its goals are:

- to improve the educational opportunities and outcomes for children with special education needs in the early childhood and school sectors
- to ensure there is a clear, consistent and predictable researching framework for special education
- to provide equitable researching for those with similar needs irrespective of school setting or geographical location.

714. The Government intends to improve the allocation of special education grants.

715. The implementation of Special Education 2000 is being evaluated primarily through a three year research project conducted by Massey University. The methodology includes questionnaires, face to face interviews, parent forums and meetings. Teacher fieldworkers cover 16 strands of the policy including researching the impact of implementation on Māori and on parents and schools. The second phase of the research is due shortly.

716. The Education Review Office has also focussed on implementing Special Education 2000 over the last three years. It reports most schools are managing their special education resourcing appropriately.

717. Specialist Education Services (SES) is contracted by the Government through a Document of Accountability to provide specialist services and support to students with high and very high needs. This includes one percent of the school population with high behaviour needs and about 3,000 students in the Ongoing Resourcing Scheme. SES also provides services to students with moderate physical needs and moderate hearing needs. The agency has major responsibility for providing early intervention services.

### **The Wylie report**

718. In 2000, Ministers of Education commissioned an analysis of the Special Education 2000 policy to make recommendations for any changes that would improve the provision of education for children with special needs. The review terms of reference focused on four key aspects that were not working as well as planned, including:

- the boundary line between moderate and high needs
- staffing and funding for units
- the allocation of the Special Education Grant
- the effectiveness of special education transport.

719. There was strong interest in the review which received more than 1,000 submissions within the two months' consultation from a wide cross-section of New Zealand society. The review also included site-visits to schools around the country, public meetings, meetings with relevant organisations and interest groups, and draws on all available research, official papers, guidelines and statistical data, and relevant international overviews of providing special education.

720. The review found:

- Special Education 2000 policy has expanded the number of students receiving some special needs support to around 5.5 percent of the school population.
- It has improved opportunities for some students with special needs, but not all.

- The division of the policy into a number of separate initiatives and funding pools has made it hard to offer students, parents, and schools, the seamless, integrated service that works best for students with special needs.
- Contestability between the fundholders working with students with ongoing high and very high needs has created fragmentation, gaps in accountability, and inequalities of resourcing and opportunity for students with special needs.
- Funding is less predictable, and has led to the casualisation of employment for many teachers, teacher-aides and therapists. This leads to the loss of expertise, which is hard to replace.
- Professional development has been patchy, focusing on the policy itself and the new support service of Resource Teachers of Learning and Behaviour, but with little available for specialist teachers and teacher-aides.
- There is too much reinvention of the wheel required in individual schools, for people already working at full stretch.

721. A wide range of recommendations were made by the review (the Wylie report) to support schools and families providing assistance to teachers working with students with special education needs. Some of the recommendations are to be implemented for the beginning of next year (Annex 61).

722. A further significant recommendation also came out of the review. The report recommends that a national system of district support and resource centres is developed under the aegis of the Ministry of Education and that the SES is disestablished. Public submissions were called for and the Minister is expected to make a decision in principle by the end of February 2001.

723. A total of \$48 million over four years was allocated in the 2000/01 budget for possible policy changes arising from the review. In implementing the first set of recommendations from the Wylie Review, \$30.2 million has been allocated to implement the first phase of recommendations from the beginning of the 2001 school year. The full year effect of the \$48 million allocation is a 5 percent increase on the current Special Education baseline of \$290 million per year.

724. In the 2000/01 budget a total of \$4.288 million over four years has been allocated to fund high special needs children in the early childhood sector. The current baseline for high/moderate needs early childhood education is \$27.886 million per year. There will be an increase of 350 children in the early childhood sector who are eligible for high special needs funding, taking the total from 2,240 to 2,590 from 1 January 2001. More funding is allocated for children with the highest special needs. In 1999/2000, up to 350 children with similar needs to those who qualified to receive high needs funding, could not be selected because the cap had been reached.

### **Education for sight and hearing impaired children**

725. There has not been a national overview, policy or direction in providing education to children and school students who are blind and visually impaired, deaf and hearing impaired. Parents, teachers, principals and specialists support the Vision Education Agency and the proposed Deaf Education Agency so people at the “grass roots” can provide co-ordinated advice on policy and strategy regarding the provision of education for their students. Resources have been allocated to support these agencies until the end of June 2001. Secretariat costs and database development are also being funded.

### **Teenage parents**

726. Submissions raised access issues for teenage parents. The Government has provided additional funding in some cases to ensure that the social needs of teenage parents are met (such as childcare needs) through special classes for teenage parents set up within schools, or special access to Correspondence School lessons.

727. There are a variety of programmes that support teen parents throughout the country, particularly in areas of at risk families. These programmes provide health, welfare and educational support to parents, including teen mothers. Teen parents have access to Correspondence School tuition so they can continue learning while learning to care and support their own children. Young parents can return to school, or some other learning environment, following the birth of their baby. A number of schools (exact number unknown) have creche facilities on-campus that teen parents can use to care for their babies. There are three schools that have custom built programmes to cater particularly for teen mothers - with purpose built child-care facilities and additional learning programmes that address the particular needs of teenage mothers.

728. Budget 2000 provided for teen support groups (groups that provide support to parents and gradually get the teen parents back into school). These funds will support students who left school around the time they became pregnant - possibly because they were disillusioned with school. The purpose is to re-establish an interest in education.

729. Some support groups that work with teen parents need continuing financial assistance. This funding typically allows the extra staff to be employed to help teen parents:

- access welfare entitlements
- stay involved with education (to some extent)
- obtain other required support such as access to childcare.

730. Parent support and development programmes, and the availability of Correspondence School lessons, are widespread. Schools that provide programmes specifically for teen parents are not widespread because of the lack of numbers to make it viable. The overwhelming majority of teenage parents have left school before becoming pregnant.

## **Early Childhood Education**

731. Since 1990 the number of early childhood education services has increased by 1,258 centres and 53,793 more children.

732. Early childhood education providers aim to promote children's learning and development from birth to school entry age. The government-subsidised providers, recognised by the Secretary of Education, include:

- Kindergartens - which generally operate sessional early childhood education for children between the ages of three and school age.
- Playcentres - which are collectively supervised and managed by parents for children aged between birth and school age.
- Education and Care services - provide either sessional, all day or flexible hour programmes for children from birth to school age. They may be privately owned, non-profit, or operate as an adjunct to the main purpose of a business or organisation.
- Home-based services - comprise networks of homes under the supervision of a co-ordinator who places children with caregivers in approved homes for an agreed number of hours per week.
- The Correspondence School - a distance education service, mainly used by children between three and five years who are unable to attend or have limited access to an early childhood service because of isolation, illness or itinerancy. Programmes are also available for children with special needs.
- Te Kohanga Reo - a movement as part of whānau development provides programmes based on the total immersion of children from birth to school age in Maori language, culture and values.
- Pacific Islands Education and Care Centres - provide programmes based on the values and languages of Pacific cultures.

733. The government also subsidises licence-exempt early childhood education groups through Early Childhood Development (ECD) which delivers funding and support. The Kohanga Reo National Trust delivers funding and support to licence-exempt Kohanga Reo. Licence-exempt groups are required to meet a different set of criteria from licensed and chartered services. They are able to meet up to five times a week for not more than three hours per day. Also, at least 50 percent of the parents of the children attending must be present.

734. Licence-exempt groups include:

- Pacific Islands Early Childhood Groups - main purpose is to provide programmes based on the values and languages of Pacific cultures.

- Playgroups - community-based groups of parents and children who meet for one to three sessions per week.
- Licence-exempt Playcentres - where parents manage and provide collective supervision for children.
- Licence-exempt Kohanga Reo.

735. The Education (Early Childhood Centres) Regulations 1998 govern the requirements of these services. The Education Review Office visits services on a three to five year cycle and reports are sent to its local management centres to follow up any compliance issues.

736. As at February 2000, the Ministry of Education had a total of 3,425 licensed early childhood services:

Childcare	1,503
Home-based networks	182
Kindergartens	602
Playcentres	529
Te Kohanga Reo	609

737. Of the 1,447 education and care services operating as at 1 July 1999 over half (53 percent) were community based and controlled by an incorporated society or charitable trust. The remainder (about 10 percent) were operated by businesses or institutions and include shopping mall creches, university creches and exercise gym creches.

### **Enrolment and participation rates in early childhood education**

738. Enrolments in ECE have increased between 1990 and 1999 by just over 45 percent, in line with the growth in the number of centres. The largest contributors by far have been education and care services and home-based networks that contributed 82 percent of this growth. Participation levels among some communities are still a matter of concern. Amongst four year olds 100 percent of Pakeha children are participating in ECE. However, 32 percent of Maori four year olds and 20 percent of Pacific four year olds are not participating in any ECE.

739. At 1 July 1999 there were 172,160 children enrolled in ECE services representing almost 59 percent of all children in New Zealand under the age of five. At 1 July 1999 almost 38 percent of Maori children enrolled in ECE attended Kohanga Reo. Maori children contributed to 15 percent of enrolments in kindergartens, 12 percent of enrolments in education and care centres and almost 12 percent of enrolments in home-based services. Maori accounted for almost 19 percent of all early childhood education enrolments which is slightly lower than the 22 percent of Maori participating in the school sector age five.

740. Pacific Islands Early Childhood Groups (funded and supported through Early Childhood Development) were the single largest provider of ECE services to Pacific children - although more than half of all Pacific children attending ECE services were either enrolled at education and care centres (33 percent) or at kindergarten (31 percent). Overall, the number of Pacific children enrolled in ECE has increased by almost 1 percent between 1998 to 1999. Pacific children accounted for 6.1 percent of all early childhood education enrolments compared with 8.5 percent representation at age five in schools.

741. Just over 83 percent of Asian children enrolled in ECE attended either education and care centres (44 percent) or kindergartens (39 percent). Asian children accounted for (4.5 percent) of all ECE enrolments compared with 5 percent representation at age five in schools. The overall increase in the number of Asians enrolled in early childhood education between 1998 to 1999 was 268 children (3.5 percent).

742. Relatively low Maori and Pacific ECE participation rates are related in part to the supply of quality providers that can match their needs and preferences. For example, the supply of qualified ECE educators who are also fluent in te reo Maori and Pacific languages is limited, and some providers need assistance to develop themselves and meet licensing standards. The Ministry of Education is developing programmes to recruit more Maori and Pacific ECE teachers and to support the development of ECE providers in Maori and Pacific communities.

#### **Measures to increase participation in early childhood education**

743. There are a number of other initiatives that are currently being undertaken by the Ministry of Education to improve participation in ECE. These include assistance to allow people responsible in services to upgrade their qualifications to the Diploma of Teaching Early Childhood Education and develop criteria for equity funding which takes into account factors such as low income, rural and isolated communities; immersion services; and English speakers of other languages (ESOL).

744. The 2000/01 budget increased funding with \$2.2 million over four years (17 percent increase on baseline of \$3.135 million per year) for the Discretionary Grants Scheme. This scheme provides capital assistance to community-based, non-profit early childhood services and targets areas with high Māori/Pacific populations, low socio-economic areas, rural areas and centres that meet the needs of working parents. This will help to meet the demand for more ECE in the targeted areas.

745. An additional \$7.25 million over four years is allocated to the Pacific pool of the Discretionary Grants Scheme which provides capital assistance to community-based, not-for profit early childhood services. This will increase the number of places available in Pacific early childhood centres where there is considerable demand for the resources available in the Pacific pool.

746. Increased participation in early childhood services (including participation by Maori and Pacific families) requires more trained teachers. A new initiative to encourage more Maori and Pacific peoples into both general teacher training and training for Maori and Pacific immersion

early childhood services has been established. The campaigns will include iwi and community radio advertising, face-to-face recruitment and information packs. This involves a total of \$1.0 million over two years (2000/01 and 2001/02).

747. Resources have also been allocated to extend pre and post-licensing support and administrative upskilling for Pacific early childhood education services (a total of \$0.340 million over four years, an 88 percent increase on the baseline \$0.096 million per year). Providing pre and post-licensing support to more Pacific early childhood services and a providing a programme to enhance the administrative capability of Pacific services aims to increase the number of licensed and chartered Pacific early childhood services. The introduction of the administrative component will strengthen the organisational viability of these services.

748. The Government has established:

- a sector-based equity funding working group to examine options for improving equity funding based on rural, low SES, special education, immersion and ESOL factors
- a sector-based Early Childhood Education Strategic Plan Working Group to enable the sector to plan and suggest policy directions for the next 10-20 years.

749. The government is also running a programme in Auckland to improve ECE participation. It is also working on developing Pacific early childhood education qualifications and increasing Maori and Pacific teacher supply.

750. A total of \$480,000 over four years has been allocated to establish a full time 0800 freephone Help Desk as a preventative and crisis intervention to offer support to at risk community-based early childhood services and strengthen the current network of ECE services.

751. Equity funding is being considered to compensate for the extra costs ECE services incur:

- serving low income, rural or isolated communities
- offering immersion programmes
- supporting children where English is their second language.

### **Measures to make education available to all**

752. The overall legal framework for education has not changed (see paragraphs 273 to 276 of the *Initial Report*).

753. Schooling is compulsory for children between the age of six and 16 years. Every person between the age of five and 19 who is not a foreign student is entitled to free enrolment and education at a state school (see paragraph 277 of the *Initial Report*).



754. State schools are not permitted to charge fees (see paragraph 679). Sometimes there may be costs associated with materials or travel.

### **School Support Project**

755. The Schools Support Project was established in response to the increasing number of occasions in which government (represented by the Ministry of Education) had to intervene to solve school management problems. It aimed to:

- improve student achievement, particularly where there are disparities
- improve school performance, including improved capability of boards of trustees
- strengthen school and community relationships.

756. A range of strategies may be implemented as part of this project for issues such as student safety, the quality of education, and the governance by school management.

757. Over \$23 million annually (including property) is currently available through this project to implement a range of strategies. In 1993/94 the Government asked the Ministry of Education to establish a range of safety net strategies that:

- would enable earlier intervention in an at risk situation
- provide support to local communities to improve/resolve difficulties before they began to place student achievement at risk
- support an improvement in community capability to self-manage as opposed to dependence on central government for support
- provide for long-term sustained change and continued improvement.

758. Experience shows that up to 10 percent of state and integrated schools are likely to require assistance through one or more aspects of the Schools Support safety net policy in any one year. As part of their self-management responsibilities, school boards of trustees are encouraged to signal difficulties to the Schools Support project team. However, despite publications and pamphlet dissemination, it is usually sources other than a board of trustees or a school community that signal a need for School Support intervention.

759. At 30 June 2000, the Schools Support Project team was working directly with 130 schools and was facilitating 17 schooling improvement initiatives involving approximately 300 schools.

760. The Ministry of Education is concerned that nearly 60 percent of the schools participating in Schools Support Project safety net initiatives are schools sited in low socio-economic communities. The emphasis in schooling improvement initiatives is to cluster schools in lower socio-economic communities. This is also one of the Ministry's key strategies to address educational achievement.

761. The Ministry of Education is keen to establish joint ownership and management of schooling improvement initiatives. This will help to ensure that the Ministry approach to schooling improvement in different communities is appropriate and that they enhance the community's awareness of needs and its capacity to respond.

762. Different models for managing schooling improvement initiatives are already emerging, for example, AIMHI (Achievement In Multicultural High Schools Initiative). Communities and schools established an AIMHI Forum and the Ministry of Education has a form of purchase agreement with the Forum to implement the project. In another initiative the Ministry negotiated and signed a Memorandum of Understanding in respect of the management of the initiatives with Te Runanga o Ngati Porou. A Tuhoe Education Authority has been established to represent the 15 schools and their communities in schooling improvement negotiations with the Ministry.

763. Timing is the final issue - implementing initiatives has taken longer than originally planned. Thus, succession planning and bedding in change management processes are currently being considered.

### **Different forms of secondary education**

764. Over the last decade New Zealand has seen an increasing diversity of schools offering a wider variety to students and parents. As at 1 July 1999, there were 109 private and 319 integrated schools. While a large majority of these are affiliated with the Roman Catholic Church, in 1998 there were 192 schools who were not (up from 130 schools in 1988).

765. Further diversity of schooling is provided in certain areas by 59 kura kaupapa Maori schools. Several initiatives have been developed as part of the Maori Education Strategy, which relate to kura kaupapa Maori. Additionally in July 2000, amendments were made to the Education Act to provide for more flexible governance arrangements in schools. Work is also being undertaken to ensure that current and new policies are designed and implemented to support the delivery of high quality education in kura kaupapa Maori.

766. In the schools sector, key issues are not in accessing education but in continuing to improve quality, participation and achievement for Maori and Pacific people. The Ministry of Education's work in this area covers a wide range of activities, including:

- supporting the development of Maori-medium education (both in mainstream schools and in kura kaupapa Maori)
- supporting programmes to improve teachers' effectiveness and school quality (including schooling improvement projects)

- providing curriculum materials (including Maori and Pacific language materials)
- providing programmes to improve schools' responsiveness to Maori and Pacific students.

767. Ongoing work aims to improve the quality and coverage of alternative education programmes and other support for students who are alienated from mainstream schooling, and to provide alternative pathways into further education and training.

768. The current baseline funding for alternative education is \$11.42 million per year. In Budget 2000 an additional \$34.82 million over four years was allocated to expand the current alternative education programme from 1,000 places to 1,820 places by 1 January 2001. This expansion will meet the needs of more students between the ages of 13 and 15 alienated from (ie, no longer enrolled in) the mainstream school system.

769. Seven residential special schools provide teaching and residential care for children with sensory disabilities and for children with severe learning, behavioural and/or emotional needs.

### **Gifted children**

770. Submissions raised the subject of gifted children. If children are recognised as gifted they receive help, but often teachers are too busy to recognise them.

771. Responsibility to meet the needs of gifted students lies with individual schools. National Administration Guidelines require all schools to identify students with special needs, and to implement teaching and learning strategies to address them. This requirement incorporates the needs of the gifted and talented as much as those of the learning disabled.

772. The Ministry of Education's guidelines *Gifted and Talented Students: Meeting their Needs in New Zealand Schools* (Annex 62), assists schools to develop policies and programmes for gifted students. The Ministry supported this publication with a nationwide professional development programme, and a gifted education community section is currently being developed on the education website, Te Kete Ipurangi. This is intended to support teachers of the gifted and talented, where they can find useful case studies and research articles, share ideas with other teachers, and have their questions answered.

773. Acceleration is less common in New Zealand than overseas, although some secondary schools do accelerate students to sit external exams a year early in some subjects, and individual instances of grade skipping may also take place, usually at the primary level. Some schools also release students to attend tuition outside the school.

### **Correspondence School**

774. The Correspondence School provides primary and secondary education for students unable to attend a regular school. This includes an early childhood service for parents unable to access conventional services for medical or location reasons. It also helps schools offer a full

curriculum by way of dual enrolments (ie, students enrolled in a local school can also enrol with the Correspondence School for subjects that their local school cannot offer). Ninety-five percent of all secondary schools use this service. Similarly this works where a local school cannot provide appropriate specialist programming or adapt curriculum for students with special needs.

### **Tracking children in the education system**

775. With the legislation change at the end of 1998, principals are now required to forward an enrolment record for that student to their next school. The legislation empowered the Secretary for Education to establish rules (that are equivalent to regulations) to make this process work. The rules also require that each school, when they enrol a student, request the student's enrolment record. If a student under 16 years "disappears" from a school, and the principal cannot locate them within a reasonably short period, the rules require the principal to advise the Ministry of Education for referral to the Non-Enrolment Truancy Service (NETS). NETS aims to track the child and return them to an appropriate educational setting. Principals were advised of this process in Ministry Circular 1999/03, "Rules for Student Enrolment Records" (Annex 63).

776. Of the 4,092 cases referred to NETS in 1999, 328 referrals were closed as "not found". The Ministry of Education and NETS have developed a wide range of methods for tracing children and young people referred, including obtaining information from relatives, neighbours, employers, schools, and the government and other agencies. "Not found" cases are all referred to the Immigration Service - in case the family has gone overseas. Efforts have been made to do better at finding these referrals via the Police and Child Youth and Family. It has been found that this is best done at the local level.

777. Some people believe that a national student database would help reduce the number of children "not found". The Ministry is currently considering this, however, even then it would be unlikely that all referrals would be found. For example, some families clearly do not wish to be found-sometimes because of abuse within the family, or they are abandoning some debt.

### **Accessible higher education**

778. The tertiary education sector covers a wide range of learning environments and systems, including public and private tertiary providers, industry training, and adult basic education. It caters to a large and growing proportion of the population every year. Students receive state funding in the form of grants, scholarships, loans, allowances and other forms of income support to help meet course and living costs.

779. Student allowances were introduced in their current form in 1989. Allowances are available to New Zealand students aged 18 and over, who are studying in recognised tertiary courses and to some senior secondary school students. Some 16 and 17 year olds may also qualify if they are living in independent circumstances, are legally married or have children to support. Since 1992, allowances for single students without dependants, who are under the age of 25, have been subject to a means test on their parents' income to target the allowances to improve the position of students from low-income families.

780. In 1992 the Government set up a Student Loan Scheme which allows New Zealand students to borrow money for course fees and course-related costs, and full time students to also borrow to cover living costs. Borrowers do not have to pay back any money until their income reaches a certain level. The scheme also provides interest write-offs to full time students and low-income earners to ensure that their debt does not grow in real terms. In 1999, 115,000 students (around 50 percent of all students) took a loan. The average amount borrowed was around \$5,000 per year.

781. There have been large increases in participation amongst young people (18 to 24 years olds) with 28.9 percent participating in tertiary education in 1999 compared to 20.5 percent in 1990. Both New Zealand's actual participation and the growth in participation is high compared to other OECD countries. These increases in participation have also been seen in those groups with traditionally lower participation rates such as those of Maori or Pacific ethnicity.

782. Student tuition fees have increased. These are subsidised by the government for tertiary study. The tertiary institutions receive the funds directly from government on behalf of students and are paid on a per student total enrolment basis.

783. There has been a downward trend in the average per student subsidy received by institutions. This means that students have had to contribute more to the cost of tuition and the fees they pay have increased. The total expenditure on tuition subsidies has, however, continued to rise as the Government of the time chose to fund increased participation at the expense of the level of support for individual students. The new Government's policy is to stabilise fees and as a preliminary measure it has provided additional funding for the 2001 academic year to those tertiary education providers who agree to hold fees at 2000 levels.

784. Participation rates among Maori and Pacific peoples in tertiary education remain lower than those of the general population. However, some Iwi Authorities provide additional benefits, such as scholarships, to assist Maori to participate in tertiary education, and Maori students sometimes qualify for special entry criteria to tertiary institutions.

785. Maori are more likely to enrol in certificate or diploma level courses than degree or post-graduate programmes. Of all Maori tertiary students in 1999, 65 percent were enrolled in diploma or certificate programmes and 35 percent were enrolled in degree or post-graduate programmes. This compares to 44 percent of non-Maori in certificate and diplomas and 56 percent of non-Maori in degree or post-graduate courses.

786. Over the last five years within tertiary education there has been an increase in the percentage of Maori students enrolling in degree or post-graduate level programmes, from 41 percent in 1995 to 47 percent in 1999.

787. Maori graduation statistics are similar to their enrolment patterns. Over the last five years within tertiary education there has been an increase in the level of Maori graduates. In 1994, 24 percent of all Maori graduates completed a degree or postgraduate level. By 1998 this had increased to 31 percent. This increase has been faster than that of non-Maori.

788. In tertiary education, there has been a significant increase in the range and variety of educational options and pathways available to Maori and Pacific peoples in recent years. Many private training establishments have emerged as important providers for Maori and Pacific peoples. The Government is also implementing policy initiatives to help increase the responsiveness of public tertiary institutions to Maori and Pacific students.

### **Educational and vocational information and guidance**

789. The primary government agency responsible for developing New Zealand's skilled workforce potential is Skill New Zealand Pukenga, Aotearoa (Skill New Zealand). Skill New Zealand specialises in purchasing education and training services, and in training pathways that focus on individuals' learning needs. Its focus is on the transition from education and training to work, and on increasing access to training in the workplace. Two programmes for skill development are Modern Apprenticeships and Industry Training. Modern Apprenticeships, a new work-based education initiative for young people, combines the best aspects of traditional apprenticeships with additional features designed to assist more young people to access employment based training towards national qualifications. Industry training has been developed by industry to give the workforce the skills and knowledge that will give New Zealand industry a competitive edge.

790. Career Services - Rapuara is a Crown entity that was established in 1990 to help the Government achieve its education, training and employment goals. It does this by providing information, advice and guidance services to help people make informed career choices. Career Services - Rapuara has also developed a world-leading internet-based career information system, KiwiCareers. Officially launched in July 1998, KiwiCareers provides internet access to comprehensive career information for a wide range of groups.

791. Too many students leave school without entering work or further training, or enter low skilled jobs with few opportunities to develop making these individuals vulnerable through their working lives. More focus on the school to work transition may improve the options and outcomes for school-leavers. A programme called Gateway has been established for a two-year evaluation (2000/01 to 2002/03). It aims to improve the school to work transition by supporting work-based education and training for senior school students.

792. Post School Pathways Strategy, Including Adult and Community Education and Adult Literacy is a priority area where policy has been haphazard. Funding outside Training Opportunities Programmes and Youth Training has been inadequate for many years. Significant investment is required to increase the scope of the sector and to address low levels of participation and achievement by Maori and Pacific peoples in post-school education, and low levels of literacy and numeracy. In Budget 2000, \$8.0 million was allocated over four years to develop an integrated policy and funding approach to post-school pathways into tertiary education. New initiatives in adult literacy and numeracy programmes, and community and adult education, will raise Maori and Pacific peoples uptake of the full range of tertiary education options.

793. Funding for new initiatives to improve access and achievement in tertiary education for under-represented groups was also announced in Budget 2000. Initiatives may include bridging programmes into tertiary education, scholarship programmes, mentoring programmes and research. This will enable Maori, Pacific peoples, and other under-represented groups to overcome barriers to tertiary education participation and achievement.

### **Measures to encourage regular attendance at school and the reduction of drop-out rates**

794. In 1998, the Wellington Community Law Centre established a Parent's Legal Information Line for School Issues (PLINFO) for information about the legal rights of parents and children within the school system. The service found that although there are many schools throughout New Zealand which handle complaints in a competent, caring and sympathetic way, a number of cases illustrate how badly things can go wrong for children and parents. Schools do not always provide a caring, supportive environment for children and parents are often reluctant to question schools too closely because they fear that their children may be disadvantaged further.

795. PLINFO found that New Zealand children do not have equal access to educational opportunities at all levels of the school system. A number of children are being excluded from all, or part of the curriculum for reasons including special needs, school "fees" and course costs, suspensions, exclusions and expulsions.

### **Enrolment schemes**

796. Enrolment schemes are used to restrict student enrolments when a school is likely to become overcrowded. Enrolment scheme legislation was changed in 1998 to reflect three principles:

- a school can only exclude the number of students that enable it to avoid overcrowding
- it is desirable for students to be able to attend a reasonably convenient school
- an enrolment scheme should allow the Secretary of Education to make reasonable use of the existing network of schools.

797. In 2000, enrolment scheme legislation was strengthened again, so that from 2001 a child has a right to attend their neighbourhood school. There are 287 schools with enrolment schemes, of which 55 are secondary schools. There are 145 enrolment schemes in Auckland.

798. The legislation requires schools at risk of overcrowding to draw up a geographic zone. All students living in that geographic zone have the right to attend the school. Out-of-zone students are chosen by ballot. Students who have or have had siblings attending the school have priority for the remaining places, followed by children of staff at the school and then other out-of-zone applicants. Exceptions to these enrolment provisions are made for children attending special programmes at a school, such as a special education or Maori immersion unit.

## **Truancy**

799. The at-risk students policy aims to improve the opportunities to achieve and the results for students with poor educational outcomes. In terms of school attendance, the District Truancy Services provide support for every school to reduce and prevent truancy. The Ministry of Education also funds NETS (see paragraphs 769-771).

800. Based on referrals in NETS first year in 1997, 65 percent of cases were completed by the end of six weeks. For 1998, this improved to 77 percent completed within six weeks, and for 1999, the rate was up to 84 percent. The faster operation has resulted from a greater awareness of NETS in schools and the wider community, and NETS increased operational capacity with more funding in 1998.

801. The impression of slower work raised in submissions may reflect that the nature of cases referred to NETS has become more complex. However, the NETS Education Advisers are handling this partly through co-operative work with the Ministry of Education in appropriate cases.

## **Study support centres**

802. Study support centres are being established to provide tuition and supervised study for upper primary school students at risk of under achievement. A total \$7.5 million has been allocated over the 2000-2004 period. Study support centres will assist to:

- improve students' basic study skills - the "building blocks" for learning - and their attitude to school
- reduce the impact of poverty on educational achievement
- engage parents in the education of their children
- reduce juvenile crime.

## **Alternative education**

803. In response to situations where either young people are unwilling to attend regular school, or schools are unwilling to enrol them in a mainstream setting, alternative education (AE) funding is made available to schools through contracts for a given number of student places. Generally the schools work with community partners to provide the AE programmes.

804. The AE system was set up so schools can work individually or in a consortium of several schools with one or more community partners - some consortia have four or five partners. Some of the funding is also made available to NETS to set up placements for individual students with various providers. Schools can also use some of their AE resourcing to purchase individual placements for students.



805. Currently, the Ministry of Education has contracts involving 310 schools, 54 of which are individual schools, the rest in consortia. Each contract has at least one partner, most have two or more. NETS made over 50 individual placements last year and will make substantially more this year. Hence, there are well in excess of 200 community partners involved in providing or supporting AE programmes one way or another.

806. In 1999, 833 students received support through the AE programmes as they were then. Of these, 73 percent were Maori and 8 percent were Pacific young people. The Ministry's priority was to establish AE programmes in places with high Maori populations. As the policy is extended nation-wide between now and the end of the first term 2001, the Ministry estimates that the AE student population will settle at about 50 percent Maori, 20 percent Pacific and 30 percent Pakeha and other ethnic groups.

### **Innovations pool**

807. The Innovations Pool provides resources for proposals that aim to meet the educational needs of school-age students who are at risk of poor educational achievement. Many organisations and individuals are keen to work with schools and their students on this area.

808. All programmes run by the Innovations Pool are being evaluated. Successful programmes will be trialed in a wider variety of schools. Students are not actually referred to other programmes - programmes are developed with the school and provider who contract with the Ministry.

809. The Innovations Pool had two funding rounds 1998/1999 and 1999/2000. Schools have submitted proposals for programmes that are then forwarded to a selection panel. Successful applicants enter into a contract with the Ministry. Budget 2000 doubled the Innovations Pool to provide support to three specific community based provider programmes in schools. A main focus for the Innovations Pool for 2000/2001 is to trial successful programmes (such as Kiwi Can and Cool Schools) in a wider range of schools. This will provide a better transfer of innovations for meeting the needs of at risk students, from concept and evaluation through to adoption in mainstream school settings.

### **Social workers in schools**

810. In 1998, a "social workers in schools" pilot project, administered by Child, Youth and Family, was established. The project focuses on early intervention emphasising partnerships between schools and social workers. Initially there were 12 positions - now there are 67.

811. The pilot aimed to establish whether children in primary schools could be better assisted by social welfare agencies. The purpose was to:

- improve the life outcomes of children, young people and their families through "early help" by providing preventive/early intervention programmes

- enhance the education, welfare and health outcomes for children from at risk families by providing school-based social services that promote the well-being of at risk children
- address behavioural and relationship difficulties that place children at risk and which create barriers to learning
- assist families to meet their care and support responsibilities
- improve accessibility to, and delivery of, early intervention services for children and families at risk
- reduce the number of children and families requiring Child, Youth and Family statutory intervention.

812. The project evaluation will assist in future policy and practice to assess the impact of a shift in focus and resources from crisis services to a more preventative and early intervention-based approach. The induction training for social workers is intended to include training on the Convention by the Office of the Commissioner for Children.

### **School discipline**

813. Using corporal punishment in schools and early childhood centres remains prohibited. However, the Education Act does allow for short-term suspension or stand-downs and expulsion from schools under certain conditions. The number of suspensions and expulsions has increased for both Maori and non-Maori during the reporting period. However, Maori are over-represented in the number of suspensions and expulsions. In 1997 Maori represented 19.8 percent of all primary and secondary school students, but accounted for 41.7 percent of all students who were suspended or expelled.

814. Changes to suspensions rules (Annex 33) now enable the Secretary for Education to make rules that regulate the practices and procedures to be followed by boards of trustees, principals, parents and students when a proposed stand-down (suspension for one period or more not exceeding five days in any one term), suspension, exclusion or expulsion is to be considered or decided upon. The rules have clarified the rights of students in relation to:

- speaking at their suspension meeting
- guidance and counselling
- an appropriate educational programme while suspended.

815. They also clarified the principal's obligation to attempt to place an excluded student in another school.

816. At least 48 hours before the board meeting, the student and the parent must be given:

- the procedures for meetings deciding on suspensions
- the principal's report to the board on suspension
- any other material about the suspension to be presented at the meeting
- the options available to the board and possible outcomes of the suspension
- the information on suspensions provided by the Ministry of Education for parents.

817. These rules are applied and practised in all suspension cases.

818. The Ministry of Education has released a report on school stand-downs, suspensions, exclusions and expulsions. The report, *What's Happening?*, details the effects of the new procedures for managing serious student misbehaviour for the period 12 July 1999 to 16 July 2000 (Annex 64). The report contains data for four school terms - the final two terms of 1999, and the first two terms of 2000.

819. The report shows that 13,272 students were stood down from school and just under 5,000 were suspended. The number of suspended students is less than 1 percent of the student population. The vast majority of suspended students (82 percent) returned to schooling after their suspension, and for most students it is a once-only experience.

820. The report's key findings are:

- The most common reasons for stand-downs were continual disobedience (3,874 cases), physical assault on students (3,669 cases), and verbal assault on staff (2,508 cases).
- The most common reasons for suspension were drug-related incidents (1,506 cases), continual disobedience (1,091 cases), physical assault on students (767 cases), verbal assault on staff (305 cases), and theft (290 cases).
- Maori students are over-represented in stand-downs and suspensions.
- Male students are over-represented in stand-downs and suspensions.
- Stand-down and suspension rates vary across regions.

821. The rule changes, especially the new stand-down option, have improved the management of student behaviour, and the new reporting system gives a better reflection of what has been happening in schools. The Ministry of Education will work with schools to address key issues raised in the report.

### **Violence at school**

822. The *National Education Guidelines* (Annex 65) require schools to provide a safe physical and emotional environment for students. Submissions by young people cited problems with bullying in schools. All schools should at least have an anti bullying policy and take active steps to address problems through their pastoral care programmes.

823. The *Health and Physical Education in the New Zealand Curriculum* (Annex 57) includes Body Care, Physical Safety and Mental Health. Many schools have developed their own non-violence policies and deal proactively with bullying when it arises. Many schools have also developed positive student support programmes of their own.

824. The Education Review Office and the Ministry of Education help to guide boards of trustees in areas of concern. All schools should have complaint procedures that deal with bullying/discrimination.

825. Occasionally a school may seek help from the Police or local community group or parent organisation. The Ministry of Education partly subsidises programmes run by SES called Eliminating Violence in up to 40 schools per year. Eliminating Violence is a systems-based action research programme that aims to empower schools to reduce the incidence of violence within school settings and school communities. Through participating in the programme, young people gain an understanding of violence and how to manage their anger. Additionally, teachers develop insight into the impact of their own behaviour, and parents and schools gain skills in working in partnership to reduce violence.

826. The Health Promoting Schools (see paragraphs 635-638) approach, promoted and supported by health agencies, also encourages schools to take a comprehensive approach in dealing with issues such as bullying and mental health. Schools are encouraged to develop appropriate policies, provide a supportive school environment, involve the school community, teach about self-esteem, mental health and preventing violence, and involve and work with appropriate agencies.

### **International co-operation**

827. Asia 2000 was founded in 1994 as a non-profit, apolitical organisation dedicated to building bridges of understanding between New Zealand and Asia. One of its activities is to support education projects that foster Asia-New Zealand relations, including:

- promoting the study of Asia in schools
- supporting conferences and workshops related to Asian studies and languages
- funding educational exchanges and scholarships.

## **B. Aims of education (article 29)**

828. In the self-managing environment, schools are responsible for providing education according to the *National Administration Guidelines* (contained in Annex 65). For health education, this requires they consult with parents and caregivers to ensure that the programmes implemented meet their student's needs.

829. The Ministry of Education provides:

- the framework for teaching health education outlined in *Health and Physical Education in the New Zealand Curriculum*
- funding to provide professional development to support teachers with implementation of the curriculum
- specific guidelines for principals and boards of trustees for implementing drug education and sexuality education
- a series of resources to assist teachers to plan and implement programmes
- a database of resources on Te Kete Ipurangi website.

830. The Ministry of Education follows a policy that is neither to directly endorse nor criticise materials, but to encourage schools to make careful and well-informed decisions about what materials to select for their students.

831. Recent curriculum developments in both health and social studies will enable schools to foster education aims that are consistent with the Convention.

832. The new *Health and Physical Education in the New Zealand Curriculum* is a framework that provides young people with opportunities to develop the resilience that is required for successful lives both now and in their futures. Schools are being encouraged to implement comprehensive health education programmes rather than completely separate modules based on high profile aspects such as drug and sexuality education.

833. Currently some schools do not provide sufficient time on the timetable for preventative education for all students and spend considerable time on intervention strategies. However, now the curricula for all seven learning areas have been completed, many schools will be reviewing the allocation of time.

834. Implementing the curriculum will provide opportunities for students to develop life skills in a range of contexts. Four key areas of learning in the curriculum; mental health, sexuality education, food and nutrition and body care and physical safety provide the contexts for health education. Aspects of well-being, while being based in one key area of learning, have logical links to others.

### **Mental health**

835. Positive mental health is a prerequisite if students are to reach their highest academic, physical and social potential. Learning in this key area provides the opportunities needed to:

- develop knowledge, understanding and skills to strengthen personal identity and self worth
- examine issues such as discrimination and stereotyping
- enhance relationships
- manage themselves and others during stressful times.

### **Sexuality education**

836. Sexuality education is a part of the health education curriculum. The Education Act 1964 requires that approximately every two years, principals consult with the school community about the health education curriculum. After consultation, the principal presents a written report to the board of trustees that outlines the proposed programme. The board then directs which components of sexuality education will be included in the curriculum. The Act also allows parents to withdraw their children from sexuality education classes. As a result, some young people may be missing important elements of sexuality education such as safe sex and contraception. (See paragraphs 324-326.)

837. This is the only area of the curriculum where law requires consultation, and where the principal does not have the final say over what is taught. No parental consent is required if a young person chooses to access the same information from other sources such as the Family Planning Association or their local GP.

838. Teachers are required to incorporate sexuality education into units of learning at both primary and secondary schools. *Sexuality Education: A Guide for Principals and Boards of Trustees* (Annex 66) provides suggestions for the outcomes that are appropriate for each learning level. This publication also provides ideas to assist schools with the consultation process that can allay concerns regarding implementing this and other aspects of health education.

### **Home schooling**

839. Home schooling is available to parents who want to educate their children at home, provided that they maintain a standard of education equivalent to that of a registered school. Parents need to obtain approval from the Ministry of Education to home school their children during the years of compulsory schooling (6 to 16 years) and are given an annual grant to help with the cost of learning materials.

840. At 1 July 1999 there were 5,452 home schoolers recorded on the Ministry of Education's database, which represents less than 1 percent of total school enrolments. These students belonged to 3,110 families. The number of home schoolers in New Zealand has nearly doubled in the period 1993 to 1999 from a total 2,738 students in 1993 to 5,452 in 1999. In July 1999, 1,704 (31 percent) of home schoolers reported their ethnicity - 84 percent identified as European/Pakeha while 11 percent identified as Maori. The percentage of Maori, Asian and Pacific students being home schooled was low compared to the number of school students.

### **Education Review Office**

841. The Education Review Office is an independent audit and review agency established in 1989 to investigate and report on education in New Zealand schools. (See paragraph 276 of the *Initial Report*.)

### **C. Leisure, recreation and cultural activities (article 31)**

842. The government has continued to support initiatives designed to encourage children to express themselves in leisure, recreation and cultural activities. Well-structured out of school care programmes are one way to ensure children and young people have access to a wide range of such activities.

843. Submissions raised issues about economic considerations and access to facilities. There were also some general comments about commercialisation of leisure time activities, finding a balance between work and play, and leisure time choices of some children and young people.

844. The government continues to provide assistance through the Out of School Care and Recreation (OSCAR) subsidy. The OSCAR subsidy is paid directly to the parent/caregiver who is responsible for paying the full amount of the fee to the OSCAR service. The previous existing childcare subsidy, which was available for children aged zero to five years, was paid directly by DWI to the childcare service. (See Annex 67 for information about OSCAR).

845. Several local councils have achieved excellent work to encourage and enable children to take part in town planning processes. Christchurch City Council is a leading example with its Children's Policy which states its commitment "to promoting the healthy, happy development of children to their full potential, both as children now and for the future well-being of our community". It employs a Children's Advocate to help implement the Children's Policy.

## **PART 8: SPECIAL PROTECTION MEASURES**

### **Introduction**

846. Part 8 reports on special protection measures including:

- assistance for refugee children
- children in armed conflicts
- children involved in the juvenile justice system
- exploitation, abuse and neglect, including recovery and reintegration
- children belonging to minority or indigenous groups.

#### **A. Children in situations of emergency (articles 22, 38 and 39)**

##### **Refugee children (article 22)**

847. New Zealand continued to admit refugee children under the Refugee Quota Programme or asylum procedures set out in paragraphs 330-336 of the *Initial Report*. However, there have been some changes to the administration of refugee settlement. The New Settler Co-ordinators, which were based at colleges of education, have been replaced by five Refugee Education Co-ordinators based in the Ministry of Education offices around New Zealand. This service assists refugees, including children, to gain access to ongoing education in the community. It recognises that school-age refugees have particular educational and settlement issues that need to be addressed before they can begin to settle into the New Zealand education system.

848. A new English as a second language refugee initiative provides English language support for each student for up to five years. Over 1,200 students are estimated to have high English language needs in schools and a further 250 with significant needs.

849. Since the decision in 1995 to remove the family reunion category from the Refugee Quota Programme, a family reunion subcategory has now been established in the 2000/01 refugee quota. This will help meet the demand for family reunification for refugees and to help make the refugee resettlement process less traumatic and difficult. There are 300 places reserved for family reunion cases.

850. An Interdepartmental Committee on Refugee Settlement has been established to provide a forum for government agencies to co-ordinate refugee policies and service delivery. It comprises officials from the Department of Labour (including the New Zealand Immigration Service, Labour Market Policy Group and the Community Employment Group), the Ministries of Foreign Affairs and Trade, Health, Education, the Department of Internal Affairs (including the Office of Ethnic Affairs), the Ministry of Social Policy, the Treasury, Department of Work and Income, Skill New Zealand, Housing New Zealand, Child Youth and Family, the Health Funding Agency, and the Department of Prime Minister and Cabinet.



851. Since a 1995 review, the quota was reduced from 800 to 750 people to allow the New Zealand government to make full payment for refugees' travel to New Zealand.

852. In 1999 significant changes were made to the procedures and terms of reference for determining refugee status claimants (including children). These procedures were placed in a statutory regime in the Immigration Amendment Act 1999, which came into force on 1 October 1999. The full text of the United Nations Convention Relating to the Status of Refugees was included as a schedule to the Act. New Zealand has adopted the definition of refugee provided in article one of that Convention.

853. The process for determining refugee status will continue to be a two-tier system made up of:

- the Refugee Status Branch (a branch within the New Zealand Immigration Service)
- the independent Refugee Status Appeals Authority which determines appeals.

854. The law changes provide a speedier and more streamlined removal process for those whose claims to refugee status are not upheld. Additionally, new provisions are currently being worked on to allow mass arrivals to be detained in premises other than prison pending their refugee status claim determination (see paragraphs 455-457).

855. Asylum seekers and people who have refugee status under the 1951 Convention on the Status of Refugees (including children) are entitled to receive the same level of publicly-funded social welfare, health care and education as quota refugees and other people lawfully in New Zealand. The government has funded programmes for organisations working with refugees and community-based orientation programmes for families of refugees. However, the government does not consider it practical to provide asylum seekers with the same six-week induction programme that quota refugees go through immediately on arrival in New Zealand (see paragraphs 92-93).

856. In terms of help given to refugees, there are new budget initiatives for organisations working with refugees and community-based orientation programmes for families and refugees:

- \$180,000 has been allocated to a pilot discretionary fund to provide financial assistance to community groups working largely or exclusively with refugees and people in refugee-like situations
- \$127,000 has also been allocated to a community-based orientation programme pilot for family members of refugees to assist them to settle more quickly.

857. Child, Youth and Family provides funding to non-government agencies for services to refugees and migrants. Most of this funding is to provide advice, information and advocacy services and in 1998/99 the total funding was \$517,435. Additionally, these services received a total of \$149,687 for other services to refugees and migrants, including parenting skills

programmes. A small amount of funding is also provided for emergency housing for applicant refugees. Services funded for families on a generic basis also include refugees and migrants. They also receive Child, Youth and Family care and protection and youth justice services as required.

858. The services provided by the Labour Inspectorate address the employment rights of refugees/asylum seekers by ensuring all employees are covered by the minimum conditions specified in legislation. The Labour Inspectorate works closely with the Immigration Service to address compliance issues relating to these groups. For example, as a result of the publicity surrounding an investigation into a sweatshop, 61 allegations involving a total of 250 foreign national workers have been brought to the Inspectorate's attention. The majority of these claims are currently under investigation.

859. The Inter-departmental Committee on Refugee Resettlement (chaired by the New Zealand Immigration Service) is currently working to identify gaps in services and new strategies for refugee resettlement. The needs of refugee children will be taken into account as part of this work.

860. Submissions raised concern about the level of assistance refugees in general receive, and that children who are refugees get even less help than adults. As noted in paragraphs 92-93, the government is monitoring progress in addressing the Committee's concerns through refugee resettlement work and updated information will be provided when this report is presented.

## **2. Children in armed conflicts (article 38), including physical and psychological recovery and social reintegration (article 39)**

861. New Zealand welcomed the adoption by consensus of an Optional Protocol to the Convention on the Involvement of Children in Armed Conflict. While the compromise text was not ideal from the point of view of any State, it represents significant progress in the standards for protecting children.

862. New Zealand signed the optional protocol and intends to ratify once constitutional processes are complete.

863. All recruitment to the New Zealand Defence Force is voluntary. Individuals cannot be recruited into the armed forces in New Zealand until they have reached a minimum age of 17 years. The Defence Act currently prohibits personnel under 18 years for the army and airforce and under 16 years and six months for navy from being liable for active service outside New Zealand. However, the Chief of New Zealand Defence Force has directed that the age for active service overseas be raised to 18 across the three services.

864. New Zealand is committed to working with the international community to stamp out the use of children as soldiers and considers that to eradicate the use of children as soldiers, international standard setting needs to be matched by practical action. New Zealand welcomed the Canadian-hosted Winnipeg Conference on War Affected Children, held in September 2000.

New Zealand was represented at the Winnipeg meeting and put our full support behind the Winnipeg “Agenda for War Affected Children”. New Zealand also made additional pledges that it would:

- work towards ratification of the child soldiers Optional Protocol
- support broad ratification of the International Criminal Court statute
- remain willing to consider further support for child soldier-related project proposals under the New Zealand Official Development Assistance Programme
- continue our firm commitment to training all members of New Zealand’s Armed Forces in an advanced programme of law of armed conflict, and providing refresher training before forces are deployed to peacekeeping operations overseas. The law of armed conflict training includes training on respect for human rights and the special protections appropriate to (amongst others) children.

865. The New Zealand Official Development Assistance programme provided support for the Asia-Pacific Conference on the Use of Children as Soldiers (Kathmandu, 15-18 May 2000) by providing \$20,000 from the Good Governance Programme for NGO delegates from the Philippines, Indonesia and Thailand to attend.

## **B. Children involved with the system of administration of juvenile justice (articles 40 and 37)**

866. The Youth Justice system continues to be governed by the Children, Young Persons and Their Families Act (see paragraphs 340 to 351 of the *Initial Report*). There has been ongoing inter-agency work to improve youth justice interventions during the reporting period.

### **1. The Administration of Juvenile Justice (article 40)**

#### **The rights of children alleged to have, or recognised as having, committed an offence**

867. Submissions emphasised those young people who offend should qualify for legal aid, even if imprisonment is unlikely. As noted in the *Initial Report*, the New Zealand Bill of Rights Act applies to children just as it does to adults. In relation to children who are alleged to have, or are recognised as having, committed an offence, all the rights affirmed by and set out in sections 21 to 27 of the Act relating to search, arrest and detention, apply. In November 1998 a Judicial Practice Note was issued requiring the District and High Courts to prioritise cases of sexual offences involving child complainants or child defendants. The Practice Note defines children as under 17 years, so it includes children and young persons under the Children, Young Persons and Their Families Act 1989.

868. Eligibility for criminal or civil legal aid is not explicitly limited by the applicant’s age. However, if the person is under 16 years, an application for civil legal aid must be made on that person’s behalf by a person of full age and capacity (section 64 Legal Services Act 1990). Civil legal aid in the Youth Court is limited to proceedings commenced through application under

Part VII of the Children, Young Persons, and Their Families Act 1989 (which relates to children and young persons in care of persons or bodies), or in respect of any review of any determination of, or any order made in, a Youth Court in any such proceedings.

869. The majority of cases involving under 17 year olds (including serious cases) are heard and resolved in the Youth Court where young people are automatically represented by court-appointed Youth Advocates (counsel with particular skills in Youth Court work). Where extremely serious charges are laid and it seems likely that the case will escalate through the system, court staff will endeavour to ensure that there is consistent representation. Criminal legal aid is not required for proceedings in the Youth Court. It may be granted to a person of any age in the general courts. There are only a very small number of cases with child defendants in the District or High Court.

870. The Ministry of Justice is undertaking a general review of the eligibility criteria for legal aid in late 2000 that may include examining the eligibility of young people.

871. Submissions raised some concern that youth advocates are not turning up at Family Group Conferences, affecting the young person's level of representation. Also, young people are having difficulties getting hold of their lawyers (especially when they are in an institution) and that is undermining their representation. If a Youth Advocate does not turn up for a Family Group Conference the co-ordinator will assess action to be taken in consultation with the young person after reasonable efforts to locate the advocate have failed. The Family Group Conference may or may not proceed on a case by case assessment.

872. Telephone access to Youth Advocates would be provided whenever needed. A young person is able to ring their Youth Advocate from any residence. Under special circumstances Youth Advocates may be flown to the residence. In normal circumstances, the young person will arrive at court in plenty of time for a pre-arranged meeting with their Youth Advocate.

### **Police complaints by children and young people**

873. Submissions indicate that young people are reporting bad experiences with Police, including beatings and have difficulty getting redress for assaults. A child or young person's complaint is dealt with in the same manner as a complaint from an adult. Statistics on formal complaints are not available in age categories (or any other categories).

874. Police are considering a number of options for listening to children and young people's concerns and opinions about policing. Police recognise that children and young people can make a valuable contribution by identifying places and behaviours that concern them.

### **Fingerprinting children and young people**

875. Police have prepared, in consultation with other agencies, guidelines for fingerprinting children and young people. Fingerprinting young people who are arrested is lawful. A blanket policy of arrest to obtain fingerprints is not lawful. Taking voluntary fingerprints from children

and young people who, along with a parent or caregiver give their informed consent, can act as a deterrent as well as provide the opportunity for early intervention to stop children and young people becoming entrenched in offending. There must be no suggestion of coercion or any other inducement to encourage voluntary fingerprints to be given (see paragraph 270).

### **Relevant provisions of the Children, Young Persons and Their Families Act 1989**

876. A review of the young offender provisions in the Children, Young Persons and Their Families Act in 1998/1999 found that generally the legislative framework was good but there were some issues identified about how the Act was being implemented. Work is continuing on the effectiveness of some orders under the legislation and if necessary, legislation will be considered when that work is complete.

### **Measures for dealing with children without resorting to judicial proceedings**

877. A general overview of the two situations where children and young people come into contact with the court system and the measures for dealing with children without resorting to judicial proceedings is provided in paragraphs 352 - 358 of the *Initial Report*.

### **Child Offenders Manual**

878. Children aged 10 to 14 who offend are regarded as child offenders and are dealt with under the care and protection provisions of the Children, Young Persons and their Families Act (unless they are charged with a very serious offence, please see paragraph 39-43). Further information about these processes is provided in paragraphs 352-357 of the *Initial Report*.

879. During the reporting period the Department for Courts and the judiciary developed a *Manual for Child Offenders - A practical guide to successful intervention with child offenders* (Annex 68). The manual's key purpose is to set out the processes for responding effectively to offending by children in this age group, including addressing causes of offending behaviour to prevent repeat offending. This manual clarifies the respective roles of the Police, Child, Youth and Family and the Courts in these processes and is designed to secure positive outcomes for child offenders.

### **Measuring outcomes**

880. There are two major pieces of current research, which will measure outcomes for young offenders.

881. Records and interviews will be used to identify factors associated with successful outcomes in the youth justice system, including achieving the goals of the Children, Young Persons and Their Families Act 1989, to reduce re-offending, reintegrate offenders and respond to victims. Both Police Youth Aid diversionary practices and Family Group Conferences will be studied. A final report is expected in 2002.

882. These research and evaluation projects will enable positive outcomes for young people to be measured. Outcomes will be documented as part of the young person's case record.

### **Youth Services Strategy**

883. Child, Youth and Family has set a long term strategic outcome to reduce serious and persistent re-offending and improve rehabilitation outcomes for high-risk youth, through a Youth Services Strategy (YSS). The client group for the YSS includes children and young people with conduct disorder, sex offenders and other offenders. The three central components of the YSS are to:

- develop tools for risk estimation, needs assessment and outcomes measurement
- extend services for high-risk youth, including specialist group homes and training for specialist caregivers
- develop and deliver structured day programmes and specialist rehabilitation programmes targeted to high-risk youth.

884. Developing risk estimation tools will form part of a structured decision-making system to be introduced across the youth services sector. This will help ensure children and young people receive the social services they need and are maintained, as much as possible, in their home communities. Particular areas of attention will be to improve access to drug and alcohol assessments and to mental health assessments.

885. Child, Youth and Family's YSS provides youth justice and care and protection services to the more serious young offenders. The strategy includes assessment and case management planning, one-to-one caregivers, specialised family homes and individualised packages of rehabilitation services. It is targeted at 12 to 16 year olds who are at risk of poor life outcomes, including re-offending. An evaluation of the strategy, including information about recidivism and YSS impact on children will be completed in 2002.

### **Review of resourcing**

886. Justice Sector Chief Executives commissioned a review of the youth justice system's resourcing. In 1999, the Ministry of Justice's report mapped the current financial resources allocated to deliver youth justice services across the government sector. The report included:

- an estimation of expenditure by each agency in different areas
- quality measures
- an indication of the unit costs based on the number of young people involved at different stages of the youth justice system
- the cumulative costs of exiting at different stages of the process.

887. In the justice sector, budget allocations include general measures available to all New Zealanders who access legal services and the courts, and specific measures designed to enhance the best interests of the child, including:

- Counsel for the Child fees and expenses
- Family Court specialist report writers
- Youth Advocate fees and expenses
- Youth Court specialist report writers
- Children's programmes (both general programmes and Māori programmes under the Domestic Violence Act 1995).

888. These specific items are judicially ordered costs, and as such are funded as Crown Costs, separate to the departmental operating budget.

### **Crime Prevention Package**

889. In 1997 the Government provided funding for a comprehensive crime prevention package of programmes targeted at youth at risk of offending. It focused on preventing young people from entering a criminal offending lifestyle and from entering or re-entering the criminal justice system. Some of the children and young people on the programmes had already committed criminal offences, while others may have been referred to the programme as a result of behaviour such as truancy.

890. Fourteen Police Youth at Risk of Offending programmes were developed, based on a model that involves identifying and targeting children and families in need, with a particular emphasis on recidivist offenders or those who are at risk of becoming offenders. The general approach involves a co-ordinated effort across three broad areas: the family, school and the community. Some programmes have also adopted a mentoring approach where adult volunteers are matched with at risk youth with the intention of becoming an appropriate role model for that child.

891. A comprehensive evaluation process was designed at the initiation of the programmes to monitor the establishment and development of the programmes and to assess their effectiveness in meeting the set objectives. The evaluation consists of three stages: formative, process and outcome evaluation. Evaluation results indicate a significant drop in offending for the children and young people on the Youth at Risk project.

892. As a reflection of Police's support to the government's focus on children and young people, high priority and additional funding were given specifically to Youth at Risk of Offending and Youth Aid in the 2000 budget.

893. Every police officer is undertaking quality-policing training that includes an emphasis on improving their relationships with young people. This includes skills for being less confrontational when dealing with the public.

894. The Wraparound Service in South Auckland provides tailored individualised services and support for young people at risk (and their family/whānau) through case management (see paragraphs 405-409).

895. A Contestable Fund for Maori Community Initiatives allowed six projects to be established to work with young people identified as at risk of offending. Led by a community project worker, the programmes are tailored to suit a particular community and to engage young people in a range of activities. The programmes provide co-ordinated support to the young person and their family. The Contestable Fund was established to enable Maori community-based groups to develop their own proposals for programmes to address youth at risk in their own communities, in their own way. An evaluation component was included to produce evidence for future use to assess whether Maori designed and delivered programmes are the best to meet Maori needs.

896. The Department of Corrections worked with DWI in selected communities to target young people involved with correction services to provide more individualised employment advice and planning to improve training and employment outcomes following their release from prison.

897. The Ministry of Youth Affairs developed a pre-release prison programme based on the successful Conservation Corps programme that it currently runs. Twelve programmes at three prison sites worked with 97 offenders during 1998 to 2000. The programme is for offenders between 17 to 25 years of age. The programmes are contracted out to local sponsor organisations and run outside the prison, and participants nearing the end of their sentence are released from prison each day to participate in a 12-week programme that includes a balance of work projects, education and challenging recreation. A prison officer is attached to each programme, primarily in a security role. Evaluation of the programmes is complete and preliminary findings suggest the programmes are valuable for participants. Further analysis of the evaluation is required to determine whether the programme is viable in the long term.

## **2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (article 37(b)-(d))**

### **Availability of a variety of alternatives to institutional care**

898. There have been significant policy developments and service delivery improvements to improve compliance with the Convention. Child, Youth and Family developed a Residential Services Strategy for young people placed in residential care. This policy specifically supports the principles of the Children, Young Persons and Their Families Act 1989.



## **Residential Services Strategy**

899. The five-year, nationwide Residential Services Strategy revised the previous residential care model. The strategy is designed to provide purpose-built residential facilities, which incorporate support programmes for children and young people in need of care and protection (or subject to supervision with residence order from the Youth Court) and for placements outside the normal home environment. The strategy has four components:

- separate “youth justice” and “care and protection” facilities at distinct sites
- youth justice residences in “non-residential” zones
- provision of a range of specialised programmes, particularly for young people who sexually abuse others and young people with a conduct disorder
- a range of management styles for residences.

900. The strategy focuses on purposeful educational and recreational activities. Individual care plans are formulated which focus on the young person’s particular needs. The plan is formulated with social workers and the young person, and is based on directions from the Family Group Conference.

901. The new facilities provide improved security which reduces staff time spent supervising young people’s security and gives them more time to be available to work with young people to implement their individual care plan.

902. The Convention was not expressly referred to in the development of this new strategy. However, there was a specific focus on the Children, Young Persons and Their Families Act and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, both of which closely reflect the articles and principles of the Convention.

903. Grievance panels are in place for residences for young people to make personal complaints or seek reviews of their care. (Annex 69. See the grievance panel guidelines appended to this report.) Submissions suggest that the grievance panels seem to be tougher about upholding complaints and that figures were needed on this. However, it was also suggested that the panels have a very slow turnover of complaints - three months for a minor matter is said to be common.

904. Joint investigation protocols have been developed to help manage complaints involving the actions of staff so that they are completed as soon as possible. Complaints against members of staff also involve a management investigation and take longer because of the human resources processes involved. Also the Commissioner for Children is available to hear complaints and concerns from young people in residences.

905. Submissions also raised an issue about introducing a no smoking rule in residences and the need for support for stopping smoking for the young people affected. Individuals with serious addiction issues are entitled to specialist/medical advice on managing withdrawal, provided through the health system. However, within residences “no smoking” is enforced and nicotine patches (and so on) are not offered because of the cost and potential for abuse.

906. See also paragraphs 464-470 and 485 of this report for information on foster care and paragraphs 877-879 for information about the Youth Services Strategy.

### **Youth justice facilities**

907. The Children, Young Persons and Their Families (Residential Care) Regulations 1996 govern the administration and management of youth justice facilities. The government intends to put the key principles of these regulations into legislation and to strengthen regard to children’s rights (see paragraphs 380-385).

908. Child, Youth and Family is also developing a set of practice standards for juvenile custodial facilities, with reference to those developed in Australia in 1998. The standards will aim to ensure high quality custodial care is provided in the best interests of the young person and their family. An emphasis on children’s rights is to be assured by reference to the Children, Young Persons and Their Families Act, to the relevant articles in the Convention (in particular those relating to juvenile justice), and to the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty.

909. Training for practitioners also includes components on the principles of the Children, Young Persons and Their Families Act, which uphold the rights of children and young people and the promotion of their welfare.

910. A concern (also raised in submissions) is that a lack of residential care places means young people are still being held in police cells and on remand for three to six months at Mt Eden Prison, Auckland because there is nowhere else for them to go. The residential advisor in Child, Youth and Family receives a daily report from each residence about all known instances where a young person is kept in police custody. All cases are actively managed to ensure that an alternative placement is identified wherever possible. This advisor regularly reports to the Principal Youth Court Judge and a working party has been set up to manage long remands in an effort to free up residential beds.

911. The Long Remand Working Party monitors the use of police cells for young people, and by addressing any practice issues, aims to decrease use. This work led to the development of the Residential Services Strategy (see paragraphs 893-900), which has generated greater availability of beds in appropriate facilities for young people. Police cell usage is also monitored at the local level by a senior social worker and Police, and by courts who determine remand periods.

## **Review of young people in prisons**

912. The interim results of a prison inmate census conducted by the Department of Corrections in 1999, revealed:

- 9 percent of all male sentenced inmates are under 20 years
- 15 percent of all female sentenced inmates are under 20 years
- for inmates under 20 years, 11 percent are Maori and Pacific Island peoples approaching almost double the representation for Europeans (6 percent)
- in total, over half the inmates were first imprisoned as teenagers. Sixty-five percent of male sentenced inmates received their first custodial sentence before they turned 20 years. Forty-six percent of female inmates received their custodial sentence before they were 20 years.

913. The policy of age-mixing in prisons has been reviewed during the reporting period and the Government has agreed that in future, vulnerable male prison inmates under the age of 20 years will be separated from their more aggressive peers and from adult inmates. New prison facilities for male youths are being established in several regions throughout New Zealand. Currently there are two specialist youth units operating at the Hawkes Bay and Waikeria Prisons. Building programmes are continuing and the Department of Corrections plans to increase the number of beds in specialist youth units to a total of 142 by March 2001.

914. Inmates under 14 years sentenced to imprisonment will be transferred to a Child, Youth and Family residence. Those under 17 years who are assessed as being particularly vulnerable and who may benefit from the programmes available through the Child, Youth and Family residence will also be transferred. All other male inmates under 17 years will be contained in specialist youth units. Those 17 to 19 year old males assessed as vulnerable will also be assigned to a youth unit.

915. The youth units will be purpose built to meet the needs of young inmates. They will include tailored recreational facilities, rooms for education and counselling, rehabilitative programmes and vocational training. Including families and developing an environment and programmes to address the specific needs of young Māori inmates and their families were identified as particularly important to the successful rehabilitation of these young offenders.

916. All female inmates aged between 14 and 19 years will be managed in existing women's prisons, or in some cases Child, Youth and Family residences. This is because, as part of the review noted above, the Department of Corrections identified that most overseas jurisdictions either allow or actively support the age-mixing of female offenders. Additionally, the low number of young women in prison means that even if it were desirable, it would not be feasible to establish more than one youth unit for the vulnerable amongst this group, estimated to be no more than 12 at any one time. This would lead to locating many young female inmates further away from their families and children than at present.

917. For these reasons further work and research is currently being undertaken to determine whether changes are needed in managing female inmates under 20 years to ensure their needs are adequately met and that there are no implications for compliance with the Human Rights Act 1993. In the meantime, female youth, like males, will be provided with activities, schooling and programmes to address the causes of their offending.

918. There are issues raised by the developments relating to the reservation on age mixing in prisons. In particular, the new youth units will take time to be established and the issue remains of managing young inmates in the interim. A positive outcome is that the new policy provides opportunities to closely scrutinise and evaluate outcomes for young offenders.

919. The Residential Services Strategy and Youth Services Strategy both aim to provide more appropriate facilities for children and young people under 18 years. The Youth Services Strategy particularly, with the development of specialist family homes, is geared to support better alternatives to prison for young women.

### **3. The sentencing of juveniles, including the prohibition of capital punishment and life imprisonment (article 37 (a))**

920. In 1998/99 a review of youth court jurisdiction and sentencing looked at the effectiveness of existing sentencing options for young people who offend - this work continues.

921. In 1999/2000 the Ministry of Youth Affairs conducted a literature review of the research into “what works” in responding to young offenders. Two publications resulted from the review, *Tough is Not Enough - Getting Smart about Youth Crime* (Annex 70) and *Rapua Te Huarahi Tika - Searching for Solutions* (Annex 71). The review found:

- there is hope - offending by young people can be reduced
- the worst cases need the most attention
- effective interventions with young people address the known causes of offending
- target multiple causes of offending using multiple techniques
- effective interventions teach new skills in active ways
- good outcomes need good people
- effective interventions touch the four corners of a young person’s life - family, school/work, peer group and neighbourhood
- good processing seems to make good outcomes more likely
- residential interventions have to work harder to succeed
- tough is not enough.

922. This information will be used by government agencies to help improve the effectiveness of responses to young people who offend.

#### **4. Physical and psychological recovery and social reintegration of the child (article 39)**

923. As noted above, Child, Youth and Family's Youth Services Strategy sets some long term strategic outcomes to reduce serious and persistent re-offending and improve rehabilitation outcomes for high risk youth (see paragraphs 877-879).

### **C. Children in situations of exploitation, abuse and neglect including physical and psychological recovery and social reintegration (articles 32-36)**

#### **1. Economic exploitation of children, including child labour (article 32)**

##### **Information about children who work**

924. Submissions raised several concerns about young people and work. It was felt that if the protections in the law were actually going to be effective, young people needed to know more about their rights in employment. There also needs to be better enforcement of those rights.

925. Concerns were raised about the hours some young people, still at school, work and there was a call for a decent minimum wage so that they do not have to work such long hours. In some cases children's contribution may be vital to the economic well-being of the family. Poverty alleviation was seen as one way to improve this situation. Several respondents said the problem was the amount of time worked, rather than the type of job, or at what age children worked. There were those, however, who felt New Zealand should have a minimum age for admission to the workforce to prevent exploitation of children (who are not covered by the minimum wage) as well as other safeguards to prevent their exploitation.

926. There does not appear to be any reliable sources of data on employment rates for children under 15 years in New Zealand. Statistics New Zealand does not collect data on the employment of children under 15 years. However, in 1999, a New Zealand Council of Trade Unions' survey found that of 659 school students aged 12 to 19, 507 (76.3 percent) had at least one job in term time or school holidays. This included students who had worked for very short periods.

927. Work is planned to gather more information on employment issues for people under 16 years. As part of a review of the minimum wage officials are looking into:

- options for improving information on young people's participation in the labour market and the interface with participation in education and training
- options for improving information on the working patterns of individuals under the age of 16 with a view to undertaking further work to protect individuals under the age of 16 in the labour market.

928. Currently the Employment Relations Service (ERS) of the Department of Labour collects general statistics, relating to collective bargaining including specified minimum youth wages (92 percent of contracts lodged with ERS have specified youth rates). This data, however, does not relate to the specified areas of the under 16 years age group. ERS also collects data regarding infringements of youth minimum wages. ERS is unable to collate specific data on collective bargaining and youth as the specific details such as gender, ethnicity or age of employees are not detailed on the collective agreements forwarded to ERS.

### **New Zealand's reservation on child labour**

929. New Zealand has a reservation in relation to article 32 of the Convention (see paragraphs 23-24). The government has considered that the rights of the child provided for in article 32(1) were adequately protected under existing New Zealand law and therefore reserves the right not to enact or take additional measures such as those listed in article 32(2).

930. However, New Zealand has continued to seek ways to enhance the working conditions of young people. The minimum wage for youth (16-19 years) was raised to \$4.55 from March 2000. This rise maintains the current level of relativity between the youth minimum wage and the adult minimum wage (60 percent), as the adult minimum wage rose to \$7.55. There is no current minimum wage rate for people aged below 16. A review of the youth minimum wage is currently being undertaken.

### **Employment Relations Act 2000**

931. The Employment Contracts Act 1991 ensured all employees' access to the Employment Tribunal and Employment Court, including young people. Proceedings could be taken in either the Tribunal or the Court to enforce an employment contract. The Employment Court also has power to alter or set aside any contract that contains harsh or oppressive conditions or that was obtained in a harsh and oppressive manner.

932. The Employment Relations Act 2000 was enacted on 19 August 2000 and repealed the Employment Contracts Act. The Employment Relations Act (due to come into force on 1 October 2000) addresses the rights of young people within broader policies designed to provide satisfactory employment outcomes. The Act is based on the principle of good faith to encourage fair dealing, mutual trust and confidence. It promotes collective bargaining and the collective organisation of employees in unions, while recognising the importance of freedom of association. It also promotes mediation as the primary problem solving mechanism.

### **Information for children and young people**

933. In light of the recent enactment of the Employment Relations Act 2000, the Employment Relations Service is re-evaluating how information on employment legislation is provided and monitored. This includes delivering information to groups including young people, Maori, Pacific peoples, refugees and migrant workers. This information strategy will also look at enhancing monitoring of employment outcomes and experiences for groups such as young people. It will also look at increasing pro-active delivery of information to groups such as young people, Maori and Pacific peoples. This delivery will have a two-pronged focus on both

effectively producing information and delivering this information in forms that best address particular issues for target groups such as youth employment rights. The initiatives will also identify aspects of the Employment Relations Act 2000 that impact on young people and include these within the ongoing monitoring strategy.

934. As young people traditionally form a smaller proportion of participants in the labour market, it is difficult to gauge young people's awareness of statutory rights and disputes resolution and grievance machinery. The re-evaluation of the Employment Relations Service's information strategy is designed to ensure views of particular groups such as young people, Maori and Pacific peoples are recognised. The data collated by client satisfaction surveys and from the survey of employment disputes and grievances provides ERS with information over whether services, including information provision, need to be targeted more specifically at groups within the labour market.

935. The new *Social Studies in the New Zealand Curriculum* (Annex 72), provides a number of opportunities to introduce information on young peoples' rights in employment. It aims to enable students to develop knowledge and understandings about human society as they study:

- people's organisation in groups and the rights, roles, and responsibilities of people as they interact within groups (social organisation)
- the contribution of culture and heritage to identity and the nature and consequences of cultural interaction (culture and heritage)
- people's interaction with places and the environment and the ways in which people represent and interpret place and environment (place and environment)
- relationships between people and events, through time, and interpretations of these relationships (time, continuity and change)
- people's allocation and management of resources and people's participation in economic activities (resources and economic activities).

936. Interestingly the social organisation strand of the curriculum provides the best opportunities to introduce information about rights and employment. The two best are Years 3-4, *Level 2, how participation within groups involves both responsibilities and rights* and Years 7-8, *Level 4, how and why people exercise their rights and meet their responsibilities*. The resources and economic activities strand, Years 9-10, *Level 5, the changing nature of work and the consequences of this for individuals and for society*, also provides an opportunity to introduce that information.

### **Health and Safety in Employment**

937. The Health and Safety in Employment Act 1992 (HSE Act) continues to require employers to ensure the safety of employees in the workplace (see paragraphs 372-373 of the *Initial Report*).

938. New Zealand's annual accident claim statistics include a list of accidents for which claims have been made for children under 15 years that were working at the time of the accident. For the period 1 July 1997 until 30 June 1998, of the 34,721 total claims for workers of all ages received by the Accident Compensation Corporation. Fifteen were accidents reported for children under 15 years, the majority of which were to persons apparently engaged in the delivery of newspapers or goods. The youngest person reported was 12 years old.

939. The *Initial Report* stated that regulations were being drafted to re-introduce and extend provisions relating to minimum ages for certain types of work and working conditions. Previous provisions had gone into abeyance when the HSE Act came into effect on 1 April 1993. The Health and Safety in Employment Regulations actually came into effect on 2 October 1995, after the *Initial Report* was written, but before it was submitted. The aim of the new regulations is to ensure that young people do not work in dangerous places or do dangerous work, and are not otherwise present in places where dangerous work takes place. The regulations therefore prohibit:

- employment of persons under 15 years of age in manufacturing, forestry, construction, or in any other area where the work taking place is likely to harm their health and safety
- the presence of people under 15 years of age in any area in a place of work where manufacturing work, forestry work, construction work, or other work which is likely to harm their health and safety is taking place, unless they are under the direct supervision of an adult
- persons under 15 years of age being employed to work with machinery or to drive or ride on any heavy vehicle, including tractors and implements being towed by vehicles
- persons under 15 years of age being required to lift any weight or perform any other task likely to injure their health
- employment of persons under 16 years of age between the hours of 10.00pm and 6.00am.

940. The new regulations covering bullet points one, three, four and five above only apply to employees. They do not apply to any young people who may be engaged to do work on contract. However, the regulation covering bullet point two applies to all young people, whether they are working in or simply visiting a workplace.

941. There are approximately 280 staff in the Department of Labour's Occupational Safety and Health Service, including 130 health and safety inspectors. There is currently 30 staff in the Employment Relations Service's Labour Inspectorate. There are no compliance programmes or practices specific to the regulations, but the health and safety inspectors look for compliance with the regulations as part of their regular law enforcement role when visiting places of work. Implementation of the regulations has not required any specific training in the rights of the child.



942. Any person who breaches the Health and Safety in Employment Regulations 1995 by taking an action, or failing to take an action (knowing it is reasonably likely to cause serious harm), is liable to imprisonment for a term of no more than one year, or a fine of not more than \$100,000, or both. Any other breach of the Act will result in liability to a fine of up to \$50,000, where it causes any person serious harm, and \$25,000 in any other case.

943. The Occupational Safety and Health Service has consulted with a number of government agencies and Industry Training Organisations to identify:

- accident and injury statistics for young workers internationally and initiatives by overseas occupational health and safety jurisdictions to address any issues
- accident and injury statistics for young workers in New Zealand
- what training and information is currently available to young and new workers
- what strategies are most appropriate to inform young and new workers about health and safety in the workplace and of their rights and responsibilities under the HSE Act
- what further work is required to highlight risk factors for youth and identify what government can do to reduce the risk of occupational injury and disease to young people.

944. A report to the Government on the results of this preliminary research is due shortly.

945. The Occupational Safety and Health Services' website for youth was launched in October 1998. It includes basic occupational safety and health information aimed at young people including their rights and responsibilities under the HSE Act and also what to do if they get hurt at work. The website has proved to be popular with over 40,000 visitors to the site in the first month following its launch and just under 950,000 visitors between April 99 and April 2000. A student's guide to the HSE Act, which is aimed at students working part-time or who are beginning to think about their career, is also available on website.

### **Employment Relations Service (ERS)**

946. The ERS addresses youth participation in the workforce with a broader objective to ensure the promotion, facilitation and enforcement of the statutory rights and obligations of employers and employees, which underpin the industrial relations policy framework. A continuing priority in regard to youth employment is the continued effective operation of the dispute resolution and grievance machinery.

947. ERS has monitored the operation of specific legislation such as the Employment Contracts Act 1991, which has provided data on the employment experiences of young people. A survey on employer and employee experiences of disputes and grievances is being completed. This data will consider age and ethnicity variables. The Labour Inspectorate is responsible for enforcing laws that relate to entitlements for youth employees, including annual leave, sick

leave, public holidays and minimum pay. The Inspectorate runs a free information service Employment Relations Info-Line, which includes both a freephone service and website which provides confidential information on employment relations issues, including those pertinent to young people.

948. The Labour Inspectorate monitors responses to its services through a client satisfaction survey, which is sent out to all clients. This survey collects data from young people, however, specific data is not analysed on the under 16 years age group separately. Of the 1,725 applications made to the Labour Inspectorate in 1999, 80 employees aged under 20 years made applications, 53 of these were made by New Zealand European, 14 by New Zealanders and seven by Maori.

949. These results are due to the low proportional use of the Labour Inspectorate services by young people, influenced by the lack of awareness among young people in regard to their rights and how breaches can be addressed. The information strategy (see paragraph 927) will address this issue.

### **Ratification of ILO Convention 182 on the Worst Forms of Child Labour**

950. The Government intends to ratify the International Labour Organisation (ILO) Convention 182 on the Worst Forms of Child Labour before the end of the year 2000, subject to the completion of domestic constitutional processes.

### **Drug abuse (article 33)**

951. New Zealand continues to focus on early intervention and prevention programmes in relation to drug abuse. An Inter-Agency Committee on Drugs (IACD) was established to promote strategies under the following approaches:

- *Supply Control*: limiting the availability of drugs through regulation and law enforcement. For example Police investigation and prosecution of drug offences, intercepting import and export of illicit drugs at our borders by Customs.
- *Demand Reduction*: reducing peoples' desire to use drugs through education and primary prevention. For example drug education development programmes to assist schools to purchase drug education consistent with effective health promotion programmes and linking schools, families and communities. Developing safety guidelines for dance-partygoers.
- *Problem Limitation*: reducing the negative consequences of drug abuse through treatment or social programmes. For example, needle syringe exchange programmes, methadone maintenance, prison drug treatment units.

952. The IACD's work is based on a harm minimisation approach, focusing on reducing the health, social and economic harms from drug use.

953. The IACD secretariat based in the Ministry of Health, co-ordinates work by a wide range of law enforcement and social policy government agencies. Each agency works in its own area of responsibility. Examples of initiatives the Ministry of Health is involved in that are likely to impact on children and youth include:

- supporting (with the Alcohol Advisory Council and other IACD agencies) the establishment of a youth health promotion website which contains drug and alcohol information (see below)
- amendments to the Misuse of Drugs Act 1975, to allow more rapid control (scheduling) of newly emerging and existing dangerous drugs
- amendments to the Smoke-free Environments Act 1990 to strengthen controls on smoking in schools, workplaces and hospitality venues
- monitoring outcomes to the change in the minimum drinking age under the Sale of Liquor Act 1989
- collaborating with the Health Funding Authority on developing its workplan for specialist mental health services (including alcohol and drug services for children and young people)
- advising the Government during the proposed review of the legal status of cannabis (once the review commences).

954. Submissions from young people called for measures to encourage a healthier attitude to alcohol. They also wanted drug education that was non-judgmental and takes a harm-reduction rather than abstention approach. In 1999, the IACD initiated the development of a website as one way to meet the requirements of the National Drug Policy (Annex 73), which states that “personal decision making and other life skills need to be developed and fostered, so that young people feel able to make health decisions about drug use”. The Alcohol Advisory Council set up an interim steering group of Health, Alcohol Advisory Council, Youth Affairs and Education (funding partners), and an advisory group. The funding partners from their 1999/2000 budgets provided an initial \$58,000 which is being used to set up a pilot site. The project is also strongly supported by the Inter-Agency Committee on Youth Suicide Prevention. Information and advice have been sought from Reachout, a similar youth website in Australia set up as part of a youth suicide intervention strategy, focusing on suicide prevention.

955. It is envisaged that the website will cover sexual, mental and physical health needs, as a one-stop-shop to support youth. The advisory group, made up of organisations actively working in the youth health field has met and formed the objectives and mission statement for the site which are to:

- enhance the health and well-being of young Maori, Pacific, European and other New Zealanders aged 15 to 18 years by increasing their access to resources, and helping them help themselves to make healthy choices

- set up and sustain an innovative website, developed with the active participation of young people, which is fun, builds communities both on-line and off-line, which reflects the needs of all young New Zealanders
- establish a website that works in terms of the principles of the Treaty of Waitangi, and co-operates with other web initiatives and youth-related government and non-government strategies and activities.

956. Work with a youth advisory/working group and web designers has been completed and the pilot is up and running. The site will be located at [www.urge.org.nz](http://www.urge.org.nz).

### **Community programmes**

957. A variety of drug education programmes are delivered by NGOs to young people through schools and in the community. Some programme providers contract with the Ministry of Education to deliver programmes to communities that have been identified at high risk of poor social outcomes. Programmes should meet the national standards of the Ministry of Education curriculum framework for schools.

958. The key area of learning in the curriculum requires that students be provided with the opportunities to develop the knowledge, understandings and skills to make informed health-enhancing decisions in relation to drug use and misuse. It is to become mandatory in 2001.

### **Drug education**

959. In accordance with the harm minimisation framework of the National Drug Policy, a number of government agencies have developed non-judgmental drug education materials for young people. For example, in 1999 the Ministry of Health produced guidelines on organising dance parties, which outlined a series of measures to mitigate environmental hazards at these events. A complementary health promotion resource provided information about alcohol and other drug-related harm.

960. In relation to school drug education, new guidelines for principals and boards of trustees (Annex 74) were developed by the Ministry of Education in 1999, which encourage schools to support curriculum-based programmes that take an explicit harm minimisation approach. Such programmes typically aim to minimise drug related harm by enhancing students' abilities to identify and deal with high-risk drinking and/or drug-taking situations that they are likely to encounter.

961. GAIN Family/Whakaruruhau provides young people and their parents with an opportunity to improve their knowledge and skills as a family on a five-week programme (see paragraph 400).

962. The Police have been particularly active in developing and promoting education programmes specifically aimed at children and young people. The Police Youth Education Service (YES) has operated for 10 years. This service aims to provide better protection for children and young persons, to prevent them from becoming perpetrators or victims of road crashes, crime and anti-social behaviour.

963. YES is a national strategy designed to meet the national standards of the Ministry of Education's curriculum framework for schools. It involves children, young people, and the significant adults with whom they interact, in acquiring knowledge and developing an understanding of the law's role and enforcement in society. Young people are encouraged to make choices and decisions about safe behaviour that reflect their understanding of the law's role and its application in society and demonstrating by action and participation that they are able to act safely, help others act safely and take a responsible role in society.

964. YES teaching programmes are organised around four strategic themes:

- Crime prevention and social responsibility (for example, stealing, vandalism, keeping law and order, search and rescue, and the role of the Police).
- Drug abuse resistance education (for example, DARE to Make a Choice/Tena Kowhiria, DARE to Drive to Survive, DARE to Make Change, DARE to Support Your Kids).
- School road safety education (for example, Road Safe series, school patrols, bus wardens, cycle helmets, DARE to Drive to Survive). (See paragraphs 281-283 and 645-648.)
- Violence prevention (for example, Keeping Ourselves Safe (sexual abuse prevention), Kia Kaha (bullying kit), and Safely Home).

965. YES programmes have been rigorously evaluated over the last decade. The results have been consistently positive and there is a substantial degree of international interest in the New Zealand programmes. Police and education officers are informed about the Convention, although the Convention is not directly referred to in any of the programmes.

966. The Ministry of Education distributed a three year Drug Education Development Programme (DEDP) funding which concluded on 30 June 2000. A selection panel considered the proposals for further drug education funding of \$950,000. These were required to reflect the approaches advocated in *Health and Physical Education in the New Zealand Curriculum* (Annex 57) and *Drug Education: A Guide for Principals and Boards of Trustees* (Annex 74).

967. Any new funding that becomes available is likely to be sought by:

- providers who previously received funding from the DEDP
- those whose proposals were unsuccessful in the recent round for which \$950,000 was available

- providers who previously accessed funds through the pool administered by the Lotteries Grants Board which is now no longer disbursing funding for drug education initiatives
- groups who develop new initiatives.

968. Funding for drug education is also available from other sources such as the Alcohol Advisory Council or from corporate sponsorship and trusts.

969. Many schools have welcomed the distribution of the resource *Drug Education: A Guide for Principals and Boards of Trustees*. Most have recognised that the harm minimisation approach is realistic for young people in New Zealand society although there has been strong opposition from some who believe that the harm minimisation approach is not appropriate in relation to the use of cannabis. The guidelines provide assistance in how to manage drug-related issues in schools.

970. Services for alcohol and drug treatment are funded through the Health Funding Authority.

### **Tobacco products**

971. A Smoke-free Environments (Enhanced Protection) Amendment Bill is being considered to amend the Smoke-free Environments Act 1990 to:

- extend the ban on smoking in workplaces to include all workplaces where two or more people work in a common airspace (not just some office areas as at present)
- ban smoking in educational institutions 24 hours a day, seven days a week (except tertiary institutions)
- ban the display of tobacco products at any check-out or other point-of-sale
- allow a judge, on sentencing a person for repeat offences within a two year period of selling a tobacco product to a person under the age of 18 years, discretion to issue an order prohibiting that person from selling tobacco products or imposing conditions or restrictions on such sales.

972. The national freephone Quitline is available to young people. The Quitline offers support and advice to smokers wishing to quit. In addition, the Health Funding Authority provides funding for school-based education concerning tobacco use. A resource *Break Free* has recently been developed to help teens quit smoking. The resource, published by the Quit Group and the Health Funding Authority, includes discussion on how to quit, what it feels like to quit, dealing with friends and family who smoke, and what to do if you slip up. *Break Free* encourages young people to call the Quitline for support and further information. There have been few studies done around the effectiveness of nicotine replacement therapy in people under 18 years.

973. Data is collected on the prevalence of smoking for those aged 15 and above. This data can be broken down on the basis of age, gender and ethnicity, with varying levels of reliability depending on the specificity of data required. The Ministry of Health releases annual Tobacco Fact Sheets.

### **3. Sexual exploitation and sexual abuse (article 34)**

974. Submissions identified that there are small pockets of child prostitution in parts of New Zealand. The area of underage prostitution is coming increasingly into focus. Child, Youth and Family are involved in cases when they come to light and are currently working on the best available ways to deal with them. Key issues include substance abuse, accommodation issues and training/education, as well as histories of abuse. In order to clear the way for ratification of ILO Convention 182 (see paragraph 944), the Government is moving to amend the Crimes Act 1961 to criminalise the use by a client of a prostitute under the age of 18.

975. Police and Child, Youth and Family will develop implementation approaches to the new legislation.

976. The extent of the commercial sexual exploitation of children is unknown in New Zealand, however, the general approach is to address this type of abuse in the same way as other forms of child abuse. While there are no specific regulations or policies on commercial sexual exploitation of children, Child, Youth and Family, the Police and other law enforcement agencies are required to take legal responsibility for the care and protection and the offending behaviour of children and young people.

977. Child, Youth and Family's work with other agencies has resulted in a number of co-ordinated service initiatives to improve outcomes for at risk families, children and young people. This includes, the *Interagency Protocols for Child Abuse Management* (see paragraph 530), and sexual abuse team protocols with the Police. The incidence of commercial sexual exploitation of children in New Zealand does not feature as a large category in Child, Youth and Family's abuse cases. However, it seems to be a growing problem as a consequence of the growth of the sex industry in large centres, and greater opportunities for distribution of pornography arising from new technology.

#### **World Congress against Commercial Sexual Exploitation of Children: Stockholm Declaration and Agenda for Action**

978. In 1996 New Zealand adopted the Agenda for Action at the 1996 World Congress against the Commercial Sexual Exploitation of Children. As part of this agreement New Zealand undertook to develop a Plan of Action identifying areas of law and policy that may be strengthened to comply with the Agenda.

979. The Ministry of Justice is leading the preparation of New Zealand's Plan of Action. A report, outlining current policy and practices in New Zealand relating to commercial sexual exploitation of children has been prepared. This report is being used to inform discussions with agencies about where New Zealand should focus its attention.

980. New Zealand also worked with other Asia-Pacific States to assist development of their own capacity to address the problem of sexual exploitation of children. For example, the government organised a visit by Thai officials in 1997 to study our child evidence laws and procedures.

981. In the year 2000, the Government is likely to introduce legislation that will make existing sexual offences in the Crimes Act 1961 (involving people under the age of 16 years) gender neutral.

### **Risk Estimation System**

982. As mentioned in paragraphs 539-543 of this report, a Risk Estimation System (RES) has been developed. An independent evaluation of the impact of RES on statutory child protection practice and client outcomes commenced in July 1999. One objective of the evaluation is to examine the cultural implementation of RES with regard to whānau, hapū and iwi and Pacific families and communities. The evaluation will be completed by December 2000.

### **4. Sale, trafficking and abduction (article 35)**

983. There have not been any convictions under legislation allowing New Zealanders to be tried for sexual abuse of a child in another country despite the law being passed in 1995.

984. New Zealand signed the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography at the Millennium Summit and is working towards ratification. New Zealand also welcomes the conclusion of negotiations on the trafficking protocol to the Transnational Organised Crime Convention.

### **5. Other forms of exploitation (article 36)**

985. Submissions raised an issue of exploitation of children in the media with the example of a young boy who had a DNA test to confirm who his birth father was, and the results being delivered live on television. There was a big outcry about this in the media and the show was later axed. Also, interviewing children after a tragedy was seen as exploitation, and it was suggested that the publicity surrounding a young boy's removal from conventional cancer treatment should also be seen as exploitation. There is a move towards setting guidelines to protect children's rights and freedoms as a result of complaints to the Broadcasting Standards Authority.

986. Child, Youth and Family is advising the Broadcasting Standards Authority on re-drafting the Broadcasting Code of Practice for free-to-air television, especially in relation to sub-clauses on the protection of children. This has arisen from the Department's issues with the Authority on the exploitation of children for news items. Child, Youth and Family, with others, continue to monitor and raise issues with appropriate authorities when the vulnerability of children is exploited in the media.



987. An Internet Safety Kit has been developed for use in schools, but other submissions felt more material is needed to educate children and parents about computers and keeping safe on the internet.

988. An Internet Safety Group comprises representatives from Child, Youth and Family, Police, Department of Internal Affairs, Auckland Rape Crisis, the Internet Company of New Zealand, the Peace Foundation, Department for Courts, SAFE Network (who provide programmes for sexual abusers), ECPAT and a number of Auckland schools. This group worked together to develop a resource pack for the year 2000 on "Internet Safety." The pack is designed for parents, teachers and children to act safely and be aware of potential abuse situations. Children, Youth and Family as well as the Ministry of Education have sponsored the resource pack.

#### **D. Children belonging to a minority or an indigenous group (article 30)**

989. Information on Maori and Pacific children is presented throughout this report.

#### **Treaty of Waitangi**

990. As noted in the introduction to this report, the Government acknowledges the Treaty of Waitangi as being fundamental to its relationship with Maori communities.

991. Since the change of Government in November 1999, key goals have been set to guide public sector policy and performance. These goals are intended to provide a clear frame of reference to the public sector so that they understand and advance the Government's overall direction. These goals include strengthening national identity and upholding the principles of the Treaty of Waitangi.

992. The previous Government used Strategic Result Areas (SRAs) to set strategic priorities for the public sector. SRA 8 related to the Treaty of Waitangi, and required government agencies to make significant progress towards negotiating and implementing fair and affordable settlements to well-founded grievances arising under the principles of the Treaty of Waitangi.

#### **Reducing inequalities**

993. Improving opportunities and reducing inequality has been signalled as a key priority for the Government.

994. Background information on the status of Maori may be found in the Core Document and in New Zealand's periodic reports on the implementation of other major human rights instruments, such as the Convention on the Elimination of All Forms of Racial Discrimination.

995. The Government has continued to commit resources to the promotion of a bicultural approach in the work of its agencies.

996. In 1998, Te Puni Kokiri, the Ministry of Maori Development presented an *Initial Report* to the Minister of Maori Affairs, *Progress Towards Closing Social and Economic Gaps Between*

*Maori and Non-Maori.* This report notes a large number of areas where there are disparities, including between Maori and non-Maori children and young people, some of which have been canvassed in this report. In 2000 an updated report was presented to the Minister of Maori Affairs (see Annex 6).

997. The priority areas are health, education, employment and housing. Other areas include sport and recreation, and benefit payments. Whanau, hapu and iwi will have more opportunity to control their own development and achieve their own objectives and solutions. Capacity building programmes will provide an opportunity for communities to identify their capabilities, their resources and opportunities and to develop strategies to achieve their goals.

998. A number of potential initiatives are before Government, which are intended to improve the employment status of job seekers. This in turn will reduce poverty levels. The key focus will be on responding to issues on a regional basis, allowing departments to design responses that are specific to the needs and situations of different communities. However, at this point the specific initiatives that are intended to enable improvements in Maori and Pacific peoples' employment status have yet to be approved by the Government.

### **Development of iwi social services**

999. The Iwi Social Services Strategy has been in place since 1992 and is designed to approve and resource iwi social services to care for and protect their own children and young people. The intent of this strategy is to improve the life outcomes of Maori children and young people who have come to the attention of Child, Youth and Family. As at December 1999, 17 iwi social services have been approved and received funding for development and establishment purposes. Seven of those iwi social services hold contracts with Child, Youth and Family to provide services. These include:

- community social worker liaison visits
- family/whanau agreements
- reports to family group conferences
- facilitation of Family Group Conferences
- managing Family Group Conference plans and court orders.

1000. A particular focus in the social services area has been the Crown's response to a report of the Waitangi Tribunal on a claim made by the Te Whanau O Waipareira Trust. In June 1998 the Waitangi Tribunal reported on the claim that the Department of Social Welfare had breached the Treaty and other requirements by failing to recognise and support Waipareira as the appropriate social service provider for its community. The Tribunal's specific recommendations were that the Department:

- deal with any Maori community which has demonstrated its capacity to exercise rangatiratanga in welfare matters and not just kin-based groups

- amend section 396 of the Children, Young Persons and Their Families Act 1989 by substituting the term “Maori Social Service” for the term “Iwi Social Service”
- negotiate with Waipareira to devolve sufficient authority and resources so it can undertake a co-ordinated and holistic approach to community development within whānau.

1001. Key messages for Crown agencies from the report included the need to:

- develop relationships with Maori communities that are based on the Treaty principles of utmost good faith, mutual co-operation and trust
- work with Maori communities in a way that empowers them to develop in their own way
- resolve the ‘piecemeal’ approach to social policy and Maori policy.

1002. In response to the Tribunal ruling, the Government proposed to amend the Children, Young Persons and Their Families Act 1989 to increase access to culturally appropriate social services and increased choice for children, young people and their families. The amendments will require the Government to recognise non-kin based Maori social service agencies, where they demonstrate they are exercising rangatiratanga. The proposed law will also allow the court to vest sole guardianship of a child in a wider range of agencies, including non-kin based Maori social services, iwi social services and cultural social services. The impact of the proposed legislation on children and young people was assessed during the policy development phase.

1003. In addition to legislative responses to the Tribunal’s decision, the Government is seeking to enhance measures for Maori children and young people in a number of ways:

- striving to achieve better co-ordination between Crown agencies involved in delivering social services (particularly health, education and welfare)
- committing to give Māori communities more control over social services.

### **Courts and the Justice system**

1004. The Department for Courts is currently developing a Service Charter, which includes a service standard requiring staff to demonstrate respect and sensitivity toward the client’s culture. Implementation of the Charter is expected by December 2000.

1005. There are various legislative provisions in the Children Young Persons and Their Families Act 1989 that allow the court to access specific information on a child or young person’s cultural context. In any proceedings the judge can appoint a lay advocate to:

- ensure that the court is made aware of all cultural matters that are relevant to the proceedings

- represent the interests of the child's or young person's whanau, hapu, and iwi (or their equivalents (if any) in the culture of the child or young person) to the extent those interests are not otherwise represented in the proceedings.

1006. The Court can also order a cultural and community report to advise on:

- the heritage and the ethnic, cultural, or community ties and values of the child or young person or the family group
- the availability of any resources within the community that would be likely to assist the child, young person, or family group.

1007. Specified people in the Act can request such a report. The Department for Courts is responsible for administering appointments and payment for services under these sections.

1008. Under the Domestic Violence Act 1995, the Department for Courts purchases specific programmes for Maori children.

### **New initiatives for Maori children and young people**

1009. In addition to improving existing services for Maori children and young people, the government has developed a number of new initiatives for Maori. For example, the Maori Community Initiative for Youth at Risk of Offending referred to earlier in the report (see paragraph 889).

1010. These Maori Youth at Risk Programmes received an extension of funding to 30 June 2001 as part of Budget 2000. This maintained current funding levels. The total amount of funding is \$399,000. The current level of funding is sufficient to meet part of the costs of the programmes.

### **Maori/Pacific health initiatives**

1011. As mentioned in paragraph 594 of this report there is an increasing emphasis on health services being provided by Maori and Pacific providers. Some of these services are whanau/family-based, and others, such as Well-Child services, are child focused. Providers responding to surveys carried out during the development of the Child Health Strategy stressed the importance of providing culturally effective health services that are acceptable to the populations they serve. Accompanying the development of culturally effective services are government funded, workforce development initiatives.

1012. Additionally, the 2010 National Road Safety Strategy has a particular focus on Maori youth death and suicide and injury rates on New Zealand roads. Te Puni Kokiri and the Land Transport Safety Authority have been working together to improve the data collection in an attempt to develop ways to reduce these rates.

### **Police initiatives**

1013. The New Zealand Police have also taken steps to reduce Maori offending/re-offending and Maori victimisation through a number of initiatives. For example, the Police operate fourteen Youth at Risk of Offending programmes (see paragraph 884). There are a total of 339 young people on the various programmes across the country, over 50 percent are Maori. The Youth at Risk programmes are undergoing extensive evaluation and have shown a 78 percent reduction in offending on average across participants.

1014. The Police Commissioner also operates a Maori Focus Forum that enables consultation and partnership with Maori at the highest level in the organisation. Similarly, in police districts, most district managers work in partnership with a Maori Focus Group who offer consultation and partnership.

1015. A Cultural Affairs Unit within the Office of the Police Commissioner is addressing offending and victimisation issues for Maori. The unit's staff work closely with a national network of Police Iwi Liaison Officers throughout the country. District staff create many of their own locally responsive initiatives for reducing offending by young Maori.

### **Family violence initiatives**

1016. Since 1997, a number of non-government agencies have been funded through Child, Youth and Family to provide programmes to address the abuse of Maori women and children, and the needs of Maori youth at risk of offending. The aim has been to mobilise Maori communities by involving whanau, hapu and iwi in developing solutions that are more appropriate for Maori. The programmes are showing strong evidence of high rates of effectiveness and success through a range of approaches. All share common elements of social work and kaupapa Maori, but otherwise differ significantly, ranging from a remote outdoors residential programme with follow-up care, to a theatre, dance and waiata programme.

1017. Programmes designed by and for Maori are also mandated under the Domestic Violence Act 1995. The Domestic Violence (Programmes) Regulations 1996 provide that every programme that is designed for Maori must take into account tikanga Maori, including a specified list of Maori concepts and cultural values. Programme approval panels must have at least one member with knowledge and understanding of tikanga Maori.

### **Measures for Pacific children and young people**

1018. The closing of socio-economic disparities is a key priority for the Government.

1019. The July 1999 Pacific Vision Conference in Auckland identified seven key strategic priorities to significantly:

- strengthen Pacific families
- improve educational achievement of Pacific peoples

- improve the health status of Pacific peoples
- improve Pacific peoples access to justice
- increase economic development within Pacific communities
- improve employment outcomes for Pacific peoples
- improve Pacific peoples' participation in decision-making processes.

1020. As a result of the conference, the Pacific Directions Report (Annex 75) suggested a pathway for the government towards significantly improving the standard of living of Pacific peoples in New Zealand.

1021. Pacific children have poorer health outcomes than other New Zealand children. A range of measures has been adopted to benefit Pacific children to reduce this disparity. The Government has set aside \$2 million for Pacific provider development schemes to improve the ability of providers to deliver services for Pacific peoples, including children. Evaluation of new health care initiatives is a requirement of most contracts to deliver services. Pacific sexual health programmes using peer educators in schools have also been established in some centres.

#### **Views of Pacific young people - seminars**

1022. During 1999 the Ministry of Pacific Island Affairs in collaboration with the Department for Courts, Ministry of Justice and Child, Youth and Family, ran two Pacific Youth Justice Seminars. One was held in South Auckland, and the other in Porirua - areas where a high density of Pacific peoples live. At both seminars the views of Pacific young people were sought about the effectiveness of the youth justice system and the issues that they faced.

1023. These sessions involved a panel of three young men who had been through the Youth Justice system. Some common issues arose out of the panel discussion and are set out below.

#### **Effectiveness of the Family Group Conference (FGC)**

1024. The FGC process could not be completely effective, if at all, unless those present were respected and liked by the young offender. Family break up may be a reason why the young person is unable to trust the group and is reluctant to co-operate because their own experience of what a family is able to provide.

#### **Communication gaps**

1025. Communication gaps between New Zealand-born Pacific youth and their island-born parents and the need to support and assist Pacific parents.

1026. All participants acknowledged the struggles that their parents experienced at the time and noted the need for some type of service or support to better assist Pacific parents to adjust their parenting skills to meet the needs of their New Zealand-born youth. All participants experienced a communication gap between themselves and their parents. This gap wasn't necessary deliberate but more one resulting from:

- a lack of understanding due to language barriers
- unmet and differing expectations
- strict imposition of cultural values and practices.

1027. Participants noted that they were from good homes and acknowledged the good intentions of their parents. In hindsight they said that their parents were doing what they thought was best. However, due to lack of understanding of western systems and ideals as well as the new environment and external influences that were affecting their children, they were unable to respond in ways other than what they were used to in the islands - which were based on their own childhood experiences.

#### **Alternatives required to harsh physical discipline**

1028. The panelists said Pacific parents need to be equipped with alternatives to the harsh physical discipline of children. A comment was made on the biblical teaching of "spare the rod, spoil the child" tempered by the principle of "discipline out of love and not anger". One panelist commented that "Samoan parents discipline out of anger". It was also explained by venting frustration based on the inability to communicate effectively and the difficulty in accepting the habits and attitudes that New Zealand-born youth were bringing home. Such a problem could be alleviated through training, re-education and support. It was mentioned that this could be achieved through taking advantage of the influence that the church has on Pacific parents.

#### **Absence of positive role models and mentors**

1029. The panelists said there was an absence of positive role models and mentors who could relate to them and what they were going through.

1030. One panelist mentioned sport as being his mentor. It was something that not only filled the gap in terms of activity but also something that motivated him to stay out of trouble to avoid the penalty of not being able to participate and progress in sport from behind prison bars. Many personal qualities such as commitment, discipline and self-control were also attributed to his involvement in sport.

#### **Waikeria Prison interviews with Pacific young people**

1031. Interviews were also carried out with young people from Waikeria Prison early in 2000 to gain their views on violent offending and the programmes that they felt were effective.

1032. The most prominent point was the lack of Pacific services available that were responsive or specific to meeting the needs of young Pacific offenders.

1033. Another key feature was the need for services to assist Pacific parents.

1034. The Ministry of Pacific Island Affairs has used these consultations to inform policy development in the area of Youth Justice and the development of effective programmes for youth offenders.

### **Further issues to be addressed for Pacific children**

1035. As a result of their parents' immigration status in New Zealand, some Pacific children miss out on many benefits that are available and indeed necessary for the welfare and well-being of any child in New Zealand (see paragraphs 445-451).

1036. The issue of children adopted from Samoa to Samoan parents in New Zealand is currently being addressed by officials in response to the recent case of abuse of Samoan children in Wellington by their New Zealand adoptive parents. Work is progressing into a proposal for developing a bilateral agreement between the Samoan and New Zealand Governments.

1037. The alarmingly high incidence of violent offending by Pacific youth is a major concern as is the lack of input from Pacific families towards developing Family Group Conference plans to avoid imprisonment. Another issue is the need to invest funds into programmes that will successfully address the topic of child abuse and discipline amongst Pacific communities.

1038. It is hoped that a closer relationship between the Ministry of Pacific Island Affairs and the Office of the Commissioner for Children will contribute to an increased awareness amongst Pacific communities about the role of the Commissioner.

### **Pacific Island Liaison Service**

1039. The Department for Courts is implementing a Youth Court Pacific Community Liaison Service as a new initiative within Budget 2000. The service will promote better links between the Department for Courts, the Youth Court and Pacific peoples in South Auckland. It also aims to assist Pacific families and communities to participate in Youth Court processes and better support young people appearing before the court.

## **CONCLUSION**

1040. This concludes New Zealand's second periodic report to the United Nation's Committee on the Rights of the Child. New Zealand looks forward to discussing this report and updating the Committee when it is presented and considered.



**Notes**

<sup>1</sup> The Human Rights Act 1993 required the Human Rights Commission to examine all Acts, regulations, government policies and administrative practices, and to report to the Minister of Justice before the end of 1998 on any conflicts with the provisions of the Human Rights Act, and any infringements of the spirit or intention of the Act. This project was conducted by the Human Rights Commission in conjunction with individual Government departments and was known as Consistency 2000.

<sup>2</sup> This paper is available on: <http://www.treasury.govt.nz/workingpapers/2000/00-13.asp>

<sup>3</sup> Growth in the Dispersion of Earnings: 1984-97. (1998) *Labour Market Bulletin* 1998: 1&2. pp 71-107. The Department also has the following article on the distribution of earnings in New Zealand The Distribution of Earnings in New Zealand, 1984-94. (1996) *Labour Market Bulletin* 1996:1 pp.45-100. Both bulletin papers are available on the Department of Labour website: [www.lmpg.govt.nz/bulletin.htm](http://www.lmpg.govt.nz/bulletin.htm)

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