



# CHiLD POVERTY ACTION GROUP

## Report to the United Nations Committee on Economic, Social and Cultural Rights: fourth periodic report of Aotearoa New Zealand

Joint submission from Action for Children and Youth Aotearoa and Child Poverty Action Group, New Zealand. Supported by Unicef New Zealand.

### Introduction

This submission has been prepared by Child Poverty Action Group (CPAG)<sup>1</sup> and Action for Children and Youth Aotearoa (ACYA)<sup>2</sup> and is supported by Unicef New Zealand and Save the Children Fund New Zealand. It focuses on economic, social and cultural rights issues for children and young people in Aotearoa New Zealand aged under 18 (children).

### ***Key messages and recommendations.***

Currently Aotearoa New Zealand has many opportunities to work towards the full enjoyment, by all children, of their economic, social and cultural rights. However several, interrelated barriers need to be overcome:

- Aotearoa New Zealand has no overarching strategy or plan that covers all children, guides policy development across government and ensures equitable access to, and outcomes from, public services.
- Unconscious bias towards Māori in education, health, justice and social services impedes Māori access to their full range of economic, social and cultural rights.
- Child poverty is a persistent and significant issue that undermines the economic, social and cultural rights of 290,000 children, that is 27 percent of those aged under 18 years of age.

**Recommendation 1:** the Committee endorse the United Nations Committee on the Rights of the Child's recommendation<sup>3</sup> that Aotearoa New Zealand adopt a comprehensive policy and strategy for the implementation of children's rights that:

- Is developed in cooperation with the public and private sectors involved in the promotion and protection of children's rights, in consultation with children, and based on a child-rights approach;
- Encompasses all children in Aotearoa New Zealand and all areas covered by the United Nations Convention on the Rights of the Child (UNCRC); and

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<sup>1</sup>Child Poverty Action Group (CPAG) is an independent charity working to eliminate child poverty in New Zealand through research, education and advocacy. Through research, CPAG highlights the position of tens of thousands of New Zealand children living in poverty and promotes public policies that address the underlying causes of that poverty and its impact on children's economic, social and cultural rights.

<sup>2</sup>ACYA is the coalition of non-governmental organisations that co-ordinates reporting on children's rights under the United Nations Convention on the Rights of the Child (UNCRC) and other international human rights instruments. ACYA is New Zealand's UNCRC country focal point.

<sup>3</sup>Committee on the Rights of the Child *Concluding observations on the fifth periodic report of New Zealand* 21 October 2016, CRC/C/NZL/CO/5, paragraph 7(a)

- is supported by sufficient human, technical and financial resources; includes clear and adequate budgetary allocations and a time frame; and incorporates follow-up and monitoring mechanisms.

**Recommendation 2:** that the New Zealand Government ensure public policies and social services align with children’s rights and the Sustainable Development Goals (SDGs) so that, amongst other things, all children and their families/whānau have access to:

- Affordable, quality housing, education, nutritious food, health care.
- Sufficient income, to ensure they can thrive and develop, and be able to participate in chosen cultural and supporting activities with their peers.
- Adequately-funded, culturally-appropriate and skilled support services when required, and that children with a disability have the supports and resources they need to live alongside and among their peers.

### **Structure of this submission**

This submission comments on the current situation regarding children’s rights and wellbeing in Aotearoa New Zealand, drawing the Committee’s attention to: the recent recommendations of the United Nations Committee on the Rights of the Child; unconscious bias towards Māori children; and child poverty. We then address some of issues of particular relevance from the list of issues prior to submission of the fourth periodic report of New Zealand<sup>4</sup> and comment on the following rights in relation to children:

- Article 2 – Right to non-discrimination
- Article 6 – Right to work
- Article 7 – Right of everyone to the enjoyment of just and favourable conditions of work,
- Article 9 – Right to social security
- Article 10 – Right to protection and assistance
- Article 11 – Right to an adequate standard of living
- Article 12 – Right to physical and mental health
- Articles 13 and 14 – Right to education

### **Children’s rights and wellbeing in Aotearoa New Zealand**

ACYA and CPAG have long recommended the New Zealand Government place children’s rights and wellbeing being at the centre of Government policy.

#### *United Nations Convention on the Rights of the Child*

Aotearoa New Zealand most recently reported to United Nations Committee on the Rights of the Child (the Children’s Rights Committee) in 2016.<sup>5</sup> The Committee was particularly concerned about persistent disparities in access to and enjoyment of rights for Māori children, Pasifika children and children with disabilities. It was also “...*deeply concerned about the enduring high prevalence of poverty among children, and the effect of deprivation on children’s right to an adequate standard of living and access to adequate housing, with its negative impact on health, survival and development and education.*”<sup>6</sup>

While emphasising the indivisibility and interdependence of children’s rights the Children’s Rights Committee identified the following areas as requiring urgent attention: violence, abuse and neglect; children deprived of a family environment; standard of living; children belonging to minority or indigenous group; child labour; and juvenile justice. The degree to which Aotearoa New Zealand realises the economic, social and cultural rights of children and their families impacts on each of these issues.

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<sup>4</sup>E/C.12/NZL/QPR/4.

<sup>5</sup>CRC/C/NZL/CO/5.

<sup>6</sup>Ibid, at para 35.

## *Children's rights and the Sustainable Development Goals (SDGs)*

The 2017 Human Rights Council resolution *Rights of the child: protection of the rights of the child in implementation of the 2030 Agenda for Sustainable Development*<sup>7</sup> called for a child-rights based approach to implementing the 2030 Agenda. Many of the SDGs link directly to economic, social and cultural rights, including rights to health, education, an adequate standard of living, and decent work. Consideration of the SDGs informs this submission.<sup>8</sup>

### *Young Māori and unconscious bias*<sup>9</sup>

The educational achievement, health status and emotional and social adjustment of rangatahi<sup>10</sup> are linked to a secure cultural identity nurtured by Māori language, custom, land, marae, whānau and community networks. Consequently, for example, "Māori students participating in Māori medium secondary education have been more likely to succeed educationally than their Māori peers at English-medium schools."<sup>11</sup>

Māori are particularly vulnerable to bias and negative out-group attitudes by Pākehā<sup>12</sup>. Aotearoa New Zealand's history of colonisation and inter-group conflict amplifies negative attitudes towards Māori. So, although Aotearoa New Zealand has comprehensive laws, policies and practices in place to prevent racism and discrimination, there is still significant evidence of significant unconscious bias towards Māori.

Across government services Māori are negatively affected by unconscious bias. For example, of all groups, New Zealand teachers have lowest expectations (of achievement) of Māori students, which keeps Māori children trapped in an enduring cycle of underachievement in education; Māori women are less likely to be offered pain relief during childbirth; Māori are four to five times more likely to be imprisoned than other groups, and this has previously been a concern for the United Nations.<sup>13</sup>

### *Child Poverty*

Child Poverty was a central concern in Aotearoa New Zealand's 2017 general election. Prior to the election, CPAG called for wide ranging policy changes,<sup>14</sup> compiled and endorsed by experts in health, education, housing, incomes and social security, to improve outcomes for all children. CPAG also encouraged the development of a range of indicators and goals to monitor progress, such as reducing child hospital admissions for preventable diseases by half, from 40,000 (yearly) to 20,000 by 2022.

Following the 2017 General Election Aotearoa New Zealand's children's advocacy community was united in calling for a strong, enduring and non-partisan commitment to reducing child poverty<sup>15</sup>. They asked

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<sup>7</sup>A/HRC/34/L.25.

<sup>8</sup>Climate change is another issue impacting on children's enjoyment of their rights in Aotearoa New Zealand. Please see *Supplementary information for the Un Committee on the Rights of the Child*. Prepared by OraTaiao: the Aotearoa New Zealand Health and Climate Council on behalf of Action for Children and Youth Aotearoa. August 2016.

[http://www.acya.org.nz/uploads/2/9/4/8/29482613/uncroc\\_orataiao\\_submission\\_on\\_climate\\_change.pdf](http://www.acya.org.nz/uploads/2/9/4/8/29482613/uncroc_orataiao_submission_on_climate_change.pdf)

<sup>9</sup>Unconscious bias is an automatic tendency for humans to perceive people, situations and events in stereotypical ways. Unconscious biases reflect deeply held stereotypes associated with different social categories. These perceptions occur outside the perceiver's conscious awareness. Humans reliably display in-group favouritism (a preference and affinity for their own in-group) and out-group derogation (discrimination toward out-groups). *Blank, Anton; Houkamau, Carla; Kingi, Hautahi. "Unconscious bias and education: a comparative study of Māori and African American students."* Oranui Press 2016.; Mahzarin R, Banaji A, Greenwald G. *Blindspot: hidden biases of good people* New York: Delacorte Press; 2013.; Dovidio JF, Kawakami K, Johnson C, Johnson B, Howard A. On the nature of prejudice: Automatic and controlled processes. *J Exp Psychol.* 1997 Sep; 33:510-540; Hewstone M, Rubin M, Willis H. Intergroup bias. *Annu Rev Psychol.* 2002;53:575-604.

<sup>10</sup>Māori youth: <http://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&keywords=rangatahi>.

<sup>11</sup>Simpson, J., Adams, J., Oben, G., Wicken, A., & Duncanson, M. (2016). *Te Ohonga Ake. The Determinants of health for Māori children and young people in New Zealand*. Dunedin: New Zealand Child and Youth Epidemiology Service for the Ministry of Health, p.127

<sup>12</sup>New Zealander of European descent:

<http://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&histLoanWords=&keywords=Pakeha>

<sup>13</sup>Blank A, Houkamau C, Kingi H, *Unconscious Bias and Education - a comparative study of Māori and African American Students*, Oranui Press, 2016, pgs 9-18

<sup>14</sup>Recommended in CPAG's policy priorities briefing paper entitled "A New Zealand where all Children can Flourish", available [http://www.cpag.org.nz/assets/171026%20CPAG%202017%20election%20briefing%20paper%20V8\\_WEB.pdf](http://www.cpag.org.nz/assets/171026%20CPAG%202017%20election%20briefing%20paper%20V8_WEB.pdf)

<sup>15</sup><http://www.cpag.org.nz/news/childrens-advocacy-community-united-in-calling/>

parties across the House to take heed of the Children's Rights Committee recommendation that New Zealand adopt a systematic approach to addressing child poverty and to implement an evidence-informed, cross-sector plan, and to set time-specific targets in relation to income and deprivation measures, and to regularly monitor progress. The Children's Commissioner offered to broker a cross party agreement.

In October 2017, Prime Minister Jacinda Ardern appointed herself as the first Minister for Child Poverty Reduction. In January 2017, she released the Child Poverty Reduction Bill<sup>16</sup>, which, if passed, will require this and subsequent governments to measure child poverty, set targets, and publicly report on progress against those targets. It will also require governments to develop, publish and review a Child Wellbeing Strategy to improve the wellbeing of all children, with a particular focus on those with greater needs. Significantly, the Bill seeks to amend the Public Finance Act 1989 so that a child poverty reduction statement is included in the annual Budget Policy Statement.<sup>17</sup>

## What needs to happen

Many recent initiatives in Aotearoa New Zealand have the potential to improve children's enjoyment of their economic, social and cultural rights. These include:

- The establishment of a child poverty reduction portfolio held by the Prime Minister;
- The introduction of child poverty reduction legislation (noted above);
- A commitment to measuring and improving wellbeing and living standards as part of economic planning;<sup>18</sup>
- The establishment of Oranga Tamariki, Ministry for Children as a stand-alone Ministry, signalling a "whole of sector" child-centred approach to working with children and young people.<sup>19</sup> (This legislation requires children's rights to be respected and upheld, including those under both the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD))
- Increased emphasis on listening to children and young people when making decisions that affect them<sup>20</sup>
- The establishment of an inquiry into child abuse in State care.
- The establishment of an inquiry into mental health and addiction.

ACYA and CPAG welcome the initiatives noted above. We submit the development and implementation of these initiatives, and any other initiatives to further the economic, social and cultural rights of children in Aotearoa New Zealand, should take a child-centred, rights-based approach underpinned by the UNCRC.

This means a clear focus on prevention and equity is needed, to give effect to the UNCRC general principles of: non-discrimination; best interests; life, survival and maximum development; and participation. In addition, as became clear during recent debate on changes to the Children, Young Persons and their Families Act 1989<sup>21</sup>, recognition and respect for the role of family, whānau, hapu and iwi, as protected under UNCRC Article 5 is critical to the wellbeing of children in Aotearoa New Zealand.

For decades, Aotearoa New Zealand has faced issues about the adequacy of information on which decision-making impacting on children is based. The need for better disaggregated data, research and monitoring of indicators to promote children's wellbeing has been a constant theme in children's rights reporting.

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<sup>16</sup> <https://www.parliament.nz/resource/0000230101>

<sup>17</sup> Ibid, clause 12, page 4

<sup>18</sup> Hon Grant Robertson, Minister of Finance Budget 2018: Budget Policy Statement 14 December 2017

<sup>19</sup> <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/investing-in-children/oranga-tamariki-ministry-for-vulnerable-children.html#Overview1>

<sup>20</sup> See for example: section 11 of the Oranga Tamariki Act 1989; clause 6A Child Poverty Reduction Bill 2018

<sup>21</sup> See, for example, Office of the Children's Commissioner *Towards a child-centred care and protection and youth justice system: submission from the office of the Children's Commissioner on the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill* 3 March 2017. <http://www.occ.org.nz/publications/submissions/oranga-tamariki-bill2/>

Technological developments are enabling better data collection and use, as part of the 'Social Investment'<sup>22</sup> approach that has been adopted in Aotearoa New Zealand. While social investment holds much promise with its emphasis on evidence-based policy and early investment to improve outcomes for children, care must be taken to avoid a narrow interpretation of social investment that seeks to target social services funding to children according to a combined set of factors that identify a child as being "vulnerable" and "at-risk" of poor outcomes. Such an approach risks undermining, rather than advancing, the wellbeing of children and their families by stigmatising them and failing to address the systemic factors that contribute to poor outcomes.

**Recommendation 3:** expanding on Recommendation 1 above, that the New Zealand Government adopt (or ensure the Child Wellbeing Strategy is) a comprehensive policy and strategy for the implementation of children's rights that:

- Ensures all children, including Māori children, Pasifika children and children with disabilities, enjoy their rights on an equal basis including by taking steps to understand and reduce bias towards Māori
- Includes an enduring, evidence informed, cross-sector plan to reduce child poverty with time specific targets and monitoring of progress
- Results in cohesive and co-ordinated action across Government to advance and monitor the rights and wellbeing of all children
- Aligns public policies, budgeting and social services with children's rights.

#### **Question 4, Issues of particular relevance: Violence**

Levels of violence against children remain a significant issue in Aotearoa New Zealand. Of particular concern has been abuse of children in State care<sup>23</sup>. The inquiry into abuse in State care is therefore welcome. The inquiry findings must be used to inform ongoing practice improvements.

In the year ended June 2017, there were 14,802 substantiated findings of child abuse<sup>24</sup>. A disproportionate number of children with disability suffer abuse and neglect. The Ministry of Health has reported that 15% of those aged under 16 and 19% of those aged under 28 who receive Disability Support Services have had a finding of abuse and neglect<sup>25</sup>.

Seven percent of children have witnessed adults at home hitting or physically hurting another adult, and 14% have witnessed adults at home hitting or physically hurting children<sup>26</sup>.

Rates of bullying in Aotearoa New Zealand are high compared with many other countries too<sup>27</sup>. The Office of the Children's Commissioner asked children about bullying, including how they feel when they see others being bullied. One 14 year old responded "*Sad, and worried for the person being bullied, but also worried for the person who is bullying?*"<sup>28</sup>

Information from the Youth2000 survey series<sup>29</sup> has found that LGBTQIA+<sup>30</sup> adolescents in school are at higher risk of being subject to violence contributing to policy and practice changes. The last survey in the Youth 2000 series was conducted in 2012. The next is planned for 2019 but funding has not been

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<sup>22</sup> <http://www.treasury.govt.nz/statesector/socialinvestment>

<sup>23</sup> This was an issue of particular concern to the Children's Rights Committee. See CRC/C/NZL/CO/5, paragraphs 22, <sup>23</sup> and also paragraph 28.

<sup>24</sup> <https://www.msdc.govt.nz/about-msdc-and-our-work/publications-resources/statistics/cyf/findings.html>

<sup>25</sup> Ministry of Health, *Characteristics of Disability Support Service (DSS) recipients*. Minister of Disability Issues Forum, December 2016.

<sup>26</sup> Family Violence Clearinghouse *Data summary: Children and youth affected by family violence*. 3 June 2017

<https://library.nzfvc.org.nz/cgi-bin/koha/opac-detail.pl?biblionumber=4741>

<sup>27</sup> Education Counts *Bullying in New Zealand primary schools and Bullying at lower secondary level in New Zealand*

[http://www.educationcounts.govt.nz/\\_data/assets/pdf\\_file/0003/142887/BullyingOnepaggers.pdf](http://www.educationcounts.govt.nz/_data/assets/pdf_file/0003/142887/BullyingOnepaggers.pdf)

<sup>28</sup> Office of the Children's Commissioner *Child and youth voices on bullying in Aotearoa: engaging children and young people in matters that affect them* May 2017.

<sup>29</sup> <https://www.fmhs.auckland.ac.nz/en/faculty/adolescent-health-research-group/publications-and-reports/vulnerable-groups-or-populations-of-young-people.html#b52862f28fca54d843de63a719af01a>

<sup>30</sup> lesbian, gay, bisexual, transgender, questioning, intersex, asexual and other sexuality and gender diverse identities.

committed, rather the Ministry for Social Development has begun a tender process for a youth survey building on Youth2000 and linked to the Government's Integrated data Infrastructure, which holds individual level data. This linking is of concern due to children's privacy and other rights under the UNCRC. It is essential that Youth 2000, which is an important source of anonymous information about the life experiences of adolescents, is continued in a format that allows comparisons over time.'

**Recommendation 4:** that New Zealand Government address the Children's Rights Committee recommendations regarding violence against children<sup>31</sup>.

## Article 2 - Non-discrimination

### *In-Work Tax Credit discrimination*

Under "Working for Families"<sup>32</sup> (WFF), a tax credit is paid to all low-income families regardless of the source of income.<sup>33</sup> However, within WFF the In-Work Tax Credit (IWTC) is tied to parents working a minimum number of paid hours per week (20 hours for sole parents, 30 hours for couples), resulting in uncertain incomes for families with fluctuating hours of paid work. If a family's hours drop below the requirement on a given week, they miss out on the hourly pay as well as the additional \$72.50 IWTC (at minimum), through no fault of their own.<sup>34</sup>

The IWTC also discriminates against children of parents of beneficiaries, including those who are studying full-time and receiving a student allowance. They are denied the IWTC portion of WFF due to the off-benefit rule, and study is not considered categorically 'work'. As a result, some 230,000 children of beneficiaries miss out on the aforementioned IWTC payment. The case was heard in the Court of Appeal in June 2013.<sup>35</sup> While the Court found that the IWTC was discriminatory against children of beneficiaries, it held that the discrimination was justified in incentivising people into work. However, the Court was reluctant to delve into the realm of social and economic policy, preferring to defer to Parliament on such matters. Accordingly, its justification argument lacked a solid empirical foundation.<sup>36</sup>

Changes to come into effect as part of the Families Package 1 July 2018 will improve the incomes of children but the issue of discrimination within WFF has not been addressed.

**Recommendation 5:** that the New Zealand Government:

- Address the recommendations put forward by Children's Rights Committee on the issue of non-discrimination against children<sup>37</sup>.
- Remove the paid work requirement of the IWTC, and the off-benefit rule, to ensure that all low-income families receive equitable support.

## Article 6 - Right to work

There are disparities in the enjoyment of article 6.2 regarding the provision of technical and vocational guidance and training programmes. Young people with disabilities aged 15-24 are four times more likely than their non-disabled peers to not be in employment, education or training (NEETs)<sup>38</sup>. For Māori youth the rate is 22.4% compared to 9.1% for the non-Māori population. Provision of career advice is being redeveloped.<sup>39</sup> CPAG and ACYA hope to see the reasonable accommodations for students with intellectual disabilities as part of this initiative and bias towards Māori students addressed.

**Recommendation 6:** that the New Zealand Government:

<sup>31</sup> CRC/C/NZL/CO/5, para 23.

<sup>32</sup> <https://www.workingforfamilies.govt.nz/>

<sup>33</sup> Worth at least \$72.50 per week with families of 1-3 children, \$15 per child more each week for 4 or more children.

<sup>34</sup> See for example: section 11 of the Oranga Tamariki Act 1989; clause 6A Child Poverty Reduction Bill 2018

<sup>35</sup> *CPAG v Attorney-General* [2013] NZCA 402.

<sup>36</sup> Refer to Max Harris "Justified Discrimination" [2013] NZLJ 363.

<sup>37</sup> CRC/C/NZL/CO/5 at paragraph 15

<sup>38</sup> New Zealand Household Labour Force Survey 2017 – June quarter

<sup>39</sup> [http://www.labour.org.nz/transforming\\_careers\\_advice](http://www.labour.org.nz/transforming_careers_advice)

- Take steps to address NEETs rates of young people with disabilities and young Māori;
- Ensure students with intellectual disabilities are reasonably accommodated with their non-disabled peers in the Government's redevelopment of a comprehensive system of careers advice and guidance alongside early access to transition planning and work experience.

## Article 7 - Right of everyone to the enjoyment of just and favourable conditions of work

For many low-income families receive low wages that are disproportionate to their costs of living, and are subject to inconsistent and inflexible hours of work. These factors are compounded by the discriminatory treatment within WFF referred to above under Article 2.

CPAG welcomes the Labour Government's plan to increase the minimum wage to \$20 by 2021 as a step in the right direction. However, CPAG endorses the New Zealand Council of Trade Unions' recommendation that the minimum wage be two-thirds of the average wage (\$19.88 per hour as at January 24, 2017).<sup>40</sup>

**Recommendation 7:** that the New Zealand Government to take steps to increase the minimum wage to two-thirds of the average wage, with annual increases that accord with that rate.

## Article 9 – Right to social security

The early 1990s saw a sudden, large and sustained rise in child poverty following policies that cut social welfare benefits by up to 25% in 1991.<sup>41</sup> These policies have never been properly restored,<sup>42</sup> and tax credits have been allowed to erode through lack of proper indexation.<sup>43</sup>

In December 2017, the Government brought in legislation to increase family tax credits<sup>44</sup>, with the aim of lifting 88,000 children above one recognised poverty line.<sup>45</sup> The increase in the threshold for earnings from \$36,350 from \$42,700 will be a welcome relief to low-income working families. However, the abatement rate for any money received over that amount will increase to 25% from 1 July 2018.<sup>46</sup> Moreover, the issue of discrimination referred to at Article 2 has not been addressed.

**Recommendation 8:** with reference to Recommendation 1 above, that the New Zealand Government to:

- Address the recommendations of the Children's Rights Committee regarding best interests of the child<sup>47</sup> and social protections<sup>48</sup>.
- Abolish sanctions which reduce the income of beneficiary families with dependent children.
- Enact legislation to ensure annual adjustments are made to the WFF tax credit threshold, to ensure it increases in accordance with wage inflation (as it does for New Zealand Superannuation).
- Reduce the rate of abatement to 20%, to ensure low-income families' ability to earn over the threshold is not needlessly compromised to the detriment of their children's wellbeing.
- Review welfare system policies and processes to ensure that everyone receives their entitlements and are treated fairly and compassionately.

<sup>40</sup><https://www.union.org.nz/minimum-wage-needs-to-be-two-thirds-of-the-average-wage/>

<sup>41</sup>Ministry of Social Development (2005) A Social Services Primer, www.nzherald.co.nz/documents. January 2005, at <http://media.nzherald.co.nz/webcontent/document/pdf/msdprimer.pdf>, p. 3: While Invalids Benefit recipients and New Zealand Superannuitants had their benefit rates frozen for 1991 (i.e. no annual indexation), all other recipients faced a fall in their benefit income. The reductions ranged from 8.9% for a sole parent with two children, to 25% for a 20 year old single unemployment beneficiary.

<sup>42</sup><http://caritas.org.nz/resources/publications/unravelling-welfare-safety-net>

<sup>43</sup><http://www.cpag.org.nz/assets/171208%20CPAG%20further%20fraying%20of%20the%20welfare%20safety%20WEB.pdf>

<sup>44</sup>[https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20171214\\_20171214\\_24](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20171214_20171214_24)

<sup>45</sup>[https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20171214\\_20171214\\_24](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20171214_20171214_24). Treasury have since advised this number is likely to be less due to their miscalculations: <http://www.treasury.govt.nz/releases/2018-01-17>

<sup>46</sup><http://www.treasury.govt.nz/budget/2018/families-package/families-package-dec17.pdf>

<sup>47</sup>CRC/C/NZL/CO/5, para 16

<sup>48</sup>CRC/C/NZL/CO/5, para 36

## Article 10 – Protection and assistance

Since the 1990s, the Government's social policy has been driven by a focus on paid work, and has increasingly ignored the vital and time-consuming work of parenting.<sup>49</sup>

With respect to Article 10, CPAG and ACYA note the lack of protection and assistance given to children and beneficiaries, and their discriminatory treatment by reason of their parents' employment status. We repeat the same recommendations set out at Article 2

### *Article 10.3 – protections for children who work*

Aotearoa New Zealand has a reservation to UNCRC Article 32(2) which covers protections for children who work. Successive governments have maintained that the rights of the child provided for in UNCRC Article 32(2) are adequately protected by its existing law. However, CPAG and ACYA question whether existing protections for young workers are, as a matter of fact, adequate.

Research conducted earlier this century (latest available) showed that secondary school students in employment have low levels of awareness surrounding their employment rights, low rates of union membership and a 50% likelihood of having a formal written employment agreement. Many schoolchildren employees reported trusting their employers to the extent that they will do work that they consider unsafe, while a small proportion will do an unsafe task because they are afraid they will lose their job if they do not. Injuries are a relatively common and occasionally serious occurrence for child workers - one sixth of secondary school students in part time work reported being injured at work in the previous year, of these injuries half were relatively minor but about one fifth were serious enough to warrant a visit to a medical professional or hospital.<sup>50</sup>

During 2012 and early 2013 an Independent Taskforce on Workplace Health and Safety identified young people as one of the groups particularly vulnerable to injury and harm.<sup>51</sup>

There is a need for better, updated information on the experiences of young workers and greater recognition of their particular vulnerabilities within the workforce so that they are properly protected from harm and exploitation.

Information available indicates that child workers are typically found in family run businesses, in the primary sector (agriculture and horticulture) as well as the retail and hospitality industries. They tend to work in the informal labour market which means many young workers are overlooked in statistical reporting and analysis, and are not covered by the protections that do exist.<sup>52</sup>

Apart from a few exceptions, young people's work is governed by the same legislative protections as other workers. The specific protections for young workers that do exist are contained in a fragmented, relatively complex, array of statute law, regulations and codes of practice.<sup>53</sup>

**Recommendation 9:** that the New Zealand Government:

- Address the recommendations of the Children's Rights Committee on the issue of child labour<sup>54</sup> to ensure young people in work are adequately protected from harm and exploitation.
- Collate data on the experience of young people in work.

<sup>49</sup>Article 7 UNCRC provides that, as far as possible, the child has a the right to know and be cared for by his or her parents.

<sup>50</sup><http://www.mbie.govt.nz/publications-research/research/labour-market-and-skills/schoolchildren-in-paid-employment.pdf>

<sup>51</sup>*The report of the Independent Taskforce on Workplace Safety and Health He korowai whakaruru hau* (2013) p 13.

<sup>52</sup>Anderson, D. "Safe enough? The working lives of New Zealand children, (2010) p 3.

<sup>53</sup>For example: the Education Act 1989 prevents the employment of those under 16 during school hours or when it would interfere with their schooling, such as night work that results in a child being too tired to concentrate the next day at school (section 30, Education Act 1989); it is an offence to use someone under 18 years of age in prostitution (Prostitution Reform Act 2003); those aged under 18 cannot sell liquor (Sale of Liquor Act 1989).

<sup>54</sup>CRC/C/NZL/CO/5, paragraph 44

## Article 11 - Right to an adequate standard of living

Between 1982 and 2016 the number of children considered to be experiencing income poverty (based on the measure of 60% of the national median income after housing costs) increased from 14% of the nation's population of children to 28% and has remained consistently at this level with minor variations.<sup>55</sup>

Poverty is a barrier to children and young people realising their right to a standard of living adequate for their physical, mental, spiritual, moral and social development.<sup>56</sup> Children with disabilities and Māori and Pasifika children are disproportionately represented in statistics relating to child poverty. Policies must address systemic issues and the unconscious bias which create additional obstacles for these groups.

CPAG and ACYA welcome the Government's intention to put children at the centre of Budget policies.

**Recommendation 10:** in light of the issues referred to throughout these submissions and previous recommendations, that the New Zealand Government:

- Address the recommendations of the Children's Rights Committee on the issue of child poverty<sup>57</sup>.
- Ensure rigorous and regular reporting by Statistics New Zealand based on a larger sample than currently taken by the Household Economics Survey from which the Household Incomes Report is drawn.
- Ensure data is captured and analysed as promptly as possible, to ensure accurate and up-to-date data is provided to adequately inform annual Budget objectives.
- Take a systemic and non-discriminative approach to improving incomes for both beneficiary families and low-income working families (with particular reference to the recommendations set out at Article 2 and 9 of these submissions).
- Include an evidence-informed, cross-sector plan to address child poverty involving health, education, housing and welfare.

### *Children with Disabilities*

Children with disability are more likely to live in low income families. Data from Statistics New Zealand's 2013 Disability Survey<sup>58</sup> shows:

- 34 % of disabled children living in families that earn under \$50,000 a year, compared to only 24 % of non-disabled children
- 15.8% to 19.4% of carers of children with disability were unemployed
- 30% of disabled children lived in one parent households, compared to 17% of non-disabled children

Estimates from 2013 Disability Survey also found that children with disability were less likely, in the previous four weeks, than non-disabled children to have had music, art, or other similar lessons; played a team sport; done other physical activity such as swimming or gymnastics; visited friends; or been away on holiday in the past 12 months.

The Children's Rights Committee made a number of strong recommendations regarding children with disabilities, including that Government "*Strengthen its efforts to combat the marginalization and discrimination of children with disabilities in their access to health, education, care and protection services, with particular attention to Māori children with disabilities, children with disabilities living in poverty and children with multiple disabilities, and undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of and prejudice against children with disabilities and promote a positive image of these children;*"

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<sup>55</sup> 2 Perry, B. (2014), Household Incomes in New Zealand: trends in indicators of inequality and hardship 1982 to 2013. Ministry of Social Development. Wellington, at <https://www.msd.govt.nz/about-msd-and-our-work/publicationsresources/monitoring/household-incomes/p135, Table F5>

<sup>56</sup> Article 23, UNCRC also provides that all children with disability have the right to [5]"enjoy a full and decent life, in conditions that ensure dignity, promote self-reliance and facilitate the child's active participation in the community."

<sup>57</sup> CRC/C/NZL/CO/5 at para 36

<sup>58</sup> [http://archive.stats.govt.nz/browse\\_for\\_stats/health/disabilities/DisabilitySurvey\\_HOTP2013.aspx](http://archive.stats.govt.nz/browse_for_stats/health/disabilities/DisabilitySurvey_HOTP2013.aspx)

Like all children and young people, those with disability are impacted by wider systemic issues associated with poverty such as housing and household income levels. They must not be overlooked or left behind in policy responses to these broader societal issues.

**Recommendation 11:** that the New Zealand Government :

- Include an explicit focus on alleviating poverty for children and young people with disabilities and their families, within the Government's child poverty reduction work; and
- Address the recommendations on children with disabilities made by Children's Rights Committee<sup>59</sup> including the adoption of a comprehensive, child rights and participatory approach to the fulfilment of the rights of children with disabilities and ensuring the Disability Action Plan takes into account the needs of those children.

#### *Food bank use*

In 2017 the Ministry of Social Development reported that "food has remained the main reason for needing hardship assistance ... grants for food assistance have increased from 98,076 in the December 2015 quarter to 137,079 in the December 2017 quarter".<sup>60</sup> On 14 February 2018, the Salvation Army reported a 13 per cent increase in food parcel distribution in 2017 compared to consistent numbers over the six years prior.<sup>61</sup>

#### *Housing*

The principle barrier to children's right to quality housing is the high price of housing and rents compared to wages. Nearly 70% of children in poverty live in state housing or private rentals. For families who are renting, the problem is threefold: house rents are high and increasing, the quality of many rental properties is substandard and deteriorating, and the rental market provides few rights and protections for renters.

The International Monetary Fund's house price-to-rent ratio shows New Zealand has one of the widest gaps between prices and incomes. For the whole of New Zealand, rents increased by around 11% between 2009 and 2014, which is around the same as Consumer Price Index inflation. But Christchurch rents increased by 20% to 30% over the past five years, with almost all of this increase since the 2011 earthquakes, and in Auckland, rents are rising faster than incomes, increasing by 17% in nominal terms between 2009 and 2013.<sup>62</sup> Low incomes and high rents cause families to share homes resulting in overcrowding, increasing the risk of infectious diseases. Children are particularly vulnerable to prolonged exposure to poor housing. Damp housing aggravates respiratory conditions in both adults and children.

CPAG and ACYA support the Labour Coalition Government's adoption of the Healthy Homes Guarantee Bill (No 2), which introduces legal obligations on landlords<sup>63</sup> to meet heating, insulation, drainage and ventilation standards prescribed by the Ministry of Business, Innovation and Employment. However, the Government must also improve renters' rights via the Residential Tenancies Act.<sup>64</sup>

CPAG supports the new Labour Government's commitment to building at least 100,000 houses over the next ten years under its KiwiBuild programme,<sup>65</sup> but recommends a greater emphasis on state housing, and targeting to areas of high need.

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<sup>59</sup> CRC/C/NZL/CO/5, para 30.

<sup>60</sup> Ministry of Social Development, 2017 *Hardship Assistance - December 2017 quarter* (refer Figure 3)

<sup>61</sup> The Salvation Army, 2018, Kei a Tātou - It Is Us State of the Nation Report

<http://www.salvationarmy.org.nz/sites/default/files/uploads/20180214tsastateofthenation2018.pdf>

<sup>62</sup> Child Poverty Action Group, 2014 *Our Children Our Choice*. p. 10. <http://www.cpag.org.nz/assets/Publications/1410063-0%20Our%20Children%20Our%20Choice%202014.pdf>

<sup>63</sup> Healthy Homes Guarantee Bill (No 2), clause 5

<sup>64</sup> In July 2017, the Residential Tenancies Amendment Bill (No 2) passed its first reading, which could place excessive burdens on tenants with respect to liability for damage to residential properties. CPAG endorses the Human Rights Commission's recommendations, in particular that the Bill should incorporate the changes to the Residential Tenancies Act set out in the Healthy Homes Bill. New Zealand Human Rights Commission *Submission on Residential Tenancies Amendment Bill (No.2)*

<sup>65</sup> <http://www.labour.org.nz/kiwibuild>

**Recommendation 12:** that the New Zealand Government:

- Overhaul the Residential Tenancies Act to improve renters' rights through ensuring more secure tenure, access to effective advocacy, support in disputes with landlords, protections against excessive rent increases and guarantees to decent quality housing through a comprehensive warrant of fitness programme;
- Adopt the recommendations of the Human Rights Commission in respect of amendments to the Residential Tenancies Amendment Bill (No 2); and<sup>66</sup>
- Establish a social housing plan that is based on realistic forecasts for future demand for social housing, targeted to areas of high need, and that budgets are allocated to fund this plan over at least a ten-year period.

## Article 12 – Right to physical and mental health

New Zealand's "triple jeopardy"<sup>67</sup> for children's health, and the root of its high rate of preventable diseases is the combination of three critical issues: poverty, unhealthy housing and inadequate basic health care. Poverty is one of the leading factors contributing to preventable childhood illness, disease, disability and deaths in New Zealand. Many major health issues in adulthood have their origins in childhood poverty, such as cardiovascular disease, mental illness, dental decay and lowered longevity.<sup>68</sup>

A child living in poverty is nearly three times more likely to end up hospitalised than a child from a more affluent household, and over eight times more likely to be hospitalised for assault, neglect or maltreatment.<sup>69</sup> Preventable diseases such as serious skin infections and respiratory illnesses including pneumonia, as well as long-term damaging diseases such as rheumatic fever and bronchiectasis are directly related to unhealthy housing, and have a higher prevalence in New Zealand than in other OECD countries.<sup>70</sup>

Pasifika children and young adults are nearly 50 times more likely than Pākēha children, and twice as likely as Māori children, to be admitted to hospital with acute rheumatic fever.

Evidence from the New Zealand Health Survey that general practice primary care (GP) visits are becoming more expensive, creating barriers to primary health care for children in poverty.<sup>71</sup> In July 2015, the Government introduced free GP visits and prescriptions for children aged under 13.<sup>72</sup> However, 13-17 year olds must pay the full fees for the GP and prescriptions.<sup>73</sup>

Dental caries remains the most common chronic childhood disease in New Zealand, with Māori and Pasifika children experiencing greater prevalence and severity than other groups.<sup>74</sup> While dental services for children are free, there is a maldistribution of services, as well as a lack of monitoring to ensure children in need are receiving adequate services.

Inadequate and nutritionally poor food during pregnancy and childhood is linked to poor health outcomes: frequent and more severe acute illnesses, and poor long term outcomes such as high cholesterol and obesity, an increasing problem in New Zealand.<sup>75</sup> Food security concerns are most frequently experienced by Pasifika young people and Māori young people. In 2012, approximately two out of three Pasifika young people and half of Māori young people reported food security concerns occasionally or

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<sup>66</sup>Ibid.

<sup>67</sup> Child Poverty Action Group. (2017). *A New Zealand where Children can flourish: Briefing paper to the incoming Government*. (BIM) p.7. [http://www.cpag.org.nz/assets/171026%20CPAG%202017%20election%20briefing%20paper%20V8\\_WEB.pdf](http://www.cpag.org.nz/assets/171026%20CPAG%202017%20election%20briefing%20paper%20V8_WEB.pdf)

<sup>68</sup> Child Poverty Action Group, 2014 *Our Children Our Choice* (OCOC). p. 7. <http://www.cpag.org.nz/assets/Publications/1410063-0%20Our%20Children%20Our%20Choice%202014.pdf>

<sup>69</sup>BIM p 8

<sup>70</sup>OCOC above n68 at p 15.

<sup>71</sup> <https://minhealthnz.shinyapps.io/nz-health-survey-2016-17-tier-1/>

<sup>72</sup> <https://www.health.govt.nz/our-work/primary-health-care/primary-health-care-subsidies-and-services/zero-fees-under-13s>

<sup>73</sup> <https://www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/medications/prescription-charges>

<sup>74</sup>OCOC above n68 at p 29

<sup>75</sup>OCOC above n68 at p 31

more often. Teenagers whose families worry about money for food are more likely to be overweight, have poor mental and physical health, and miss school.<sup>76</sup>

**Recommendation 13:** that the New Zealand Government:

- Address the recommendations of the Children's Rights Committee on regarding children's health<sup>77</sup>, including those on children's rights and climate change.
- Extend free primary health care and prescriptions for children up to the age of 18, and ensure universal and adequate health care is provided to all children up to age 18, for all health needs including prescriptions, oral health, vision and hearing care.
- Monitor and create targets to close equity gaps for the availability and acceptability of health services to different cultural groups, including developing culturally appropriate services for Māori and Pasifika communities.
- Develop a new national target that 90% of all schools have healthcare appropriate for the age of the pupils, and their health needs.
- In addition to the current Government-funded breakfast in schools programme, instate an inclusive and universal free school lunch programme, and develop a new national target of less than 5% of children arriving hungry at school.

## Article 13 and 14 – Right to education

Students from low-socioeconomic backgrounds, Māori and Pasifika learners, and students with special education needs have historically not experienced equitable opportunities for success in the New Zealand schooling system.

### *Early childhood care and education (ECCE)*

A 2016 OECD report also stated that New Zealand childcare was second only to the UK in having the highest fees, equating to 29% of a family's net income compared to 16% in Australia, and less than 10% in Germany and France. This disparity suggests that the burden of childcare costs in New Zealand is disproportionately borne by households.<sup>78</sup>

92.4% of New Zealand 3-5 year olds and 41.9% of 0-2 year olds were enrolled in ECCE in 2014. Average ECCE attendance hours per week in New Zealand increased from 13.2 in 2000 to 20.4 in 2014. This increase is likely in response to minimum work hours required to qualify for the IWTC<sup>79</sup>, and because since 2007 the majority of services began to offer 20 hours of government-subsidised enrolment.<sup>80</sup> This has come at a cost to quality provision, since in 2008<sup>81</sup> the Government also reduced the expectation that by 2012 all ECCE teachers would be qualified to the current minimum requirement of 50%.

Services with lower proportions of qualified and registered teachers are more likely to have a high percentage of Māori and Pasifika children, and to be situated in high social deprivation areas.<sup>82</sup> Poor quality ECCE can be harmful<sup>83</sup>, whilst high quality provision establishes important foundational dispositions to learning, and is especially beneficial to children from disadvantaged homes.<sup>84</sup>

CPAG and ACYA welcome the new Government's initiative to increase funding for ECCE and aim to reinstate funding for centres that employ 100% qualified and registered teachers, as well as its aim of requiring 100% of all ECCE teachers to be qualified. However, the Government must ensure that all teachers are degree qualified via accredited institutions.

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<sup>76</sup><http://www.tandfonline.com/doi/full/10.1080/1177083X.2017.1398175>

<sup>77</sup> CRC/C/NZL/CO/5, paras 31, 32, 33 and 34

<sup>78</sup>"A New Zealand where all Children can Flourish", above n 14 at p 26.

<sup>79</sup>Ibid, p 24.

<sup>80</sup>Ibid.

<sup>81</sup><http://www.legislation.govt.nz/regulation/public/2008/0204/latest/DLM1412611.html>

<sup>82</sup>"Our Children Our Choice" above n at p 43.

<sup>83</sup>"Our Children Our Choice" above n at p 9.

<sup>84</sup><https://www.ecnz.ac.nz/sites/default/files/uploaded-content/website-content/Publications/early-childhood-teachers-work-in-education-and-carecentres-web-090812.pdf> at p 20-27

For-profit services have increased. They rely on low levels of qualified staff to return profits to owners/shareholders yet are eligible for the same subsidies (20 hours) that community based non-profit centres receive and raise issues around the impact of the business sector on children's rights<sup>85</sup>.

**Recommendation 14:** that the New Zealand Government:

- Address the recommendations of the UNCRC on ECCE<sup>86</sup>.
- Ensure that high quality, culturally responsive early childhood education is available for all children in early childhood care and education (ECCE) by requiring 100% degree-qualified teachers in all teacher-led ECCE centres and complying with standards on children's rights and the business sector.

#### *Primary and secondary education*

By law, every child has the right to a free education from age five to 19. However, as government spending has failed to keep pace with the increase in costs of education, schools have sought extra financial assistance from families.

Consequently, New Zealand households contribute 32% more than the OECD average to total expenditure on education during the course of a student's education.<sup>87</sup> These expenses include large 'voluntary donations' from families,<sup>88</sup> "essential stationery" such as expensive digital devices<sup>89</sup>, and the direct costs of student participation in sports, cultural activities and education outside the classroom, all on a user-pays basis.

An additional cost is the private fees for NCEA examinations and formal school qualifications.<sup>90</sup> In addition to health and housing barriers, these barriers create large divergences in access to education in New Zealand, making it extremely difficult for children in poverty to not only attain a decent primary school education, let alone attain formal qualifications.

CPAG and ACYA welcome the new Government's plan to spend an additional \$4billion in the education sector.<sup>91</sup> However, they hope to see a concerted and targeted approach to ensuring all schools are adequately funded to meet curriculum costs.

Since the 1990s, New Zealand has used a decile classification system to allocate 'equity funding', which constituted a small proportion of schools' overall funding. In 2017, as part of its Education System Funding Review, the then government announced introduced a new Risk of Not Achieving Index as part of its initiative to replace additional funding on the basis of socio-economic disadvantage, with a system based on risk identification and mitigation. CPAG and ACYA are not convinced that such a system will adequately identify or support the learning needs of children living in income poverty and material hardship households.

**Recommendation 15:** that the New Zealand Government:

- Address the recommendations of the UNCRC on education<sup>92</sup>.
- Guarantee a genuinely free education in all public schools at compulsory schooling level. In particular remove the "hidden costs" of free education:
  - Abolish NCEA and scholarship examination fees, or at the minimum provide a 100% subsidy on these in decile 1-4 schools.

<sup>85</sup> See Committee on the Rights of the Child *General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights* 17 April 2013. CRC/C/GC/16.

<sup>86</sup> CRC/C/NZL/CO/5 at para 38.

<sup>87</sup> OECD (2013) *Education at a Glance*, Table B3.1, p.205 [http://www.oecd.org/education/eag2013%20\(eng\)--FINAL%2020%20June%202013.pdf](http://www.oecd.org/education/eag2013%20(eng)--FINAL%2020%20June%202013.pdf)

<sup>88</sup> equating to \$1b across 2010 to 2015: <https://www.stuff.co.nz/the-press/news/76026570/schools-rely-on-1b-donations-during-15-years-of-free-education-system>

<sup>89</sup> <https://www.stuff.co.nz/national/education/88565860/technology-takes-school-stationery-list-to-the-next-level>. See also

<http://www.cpag.org.nz/news/back-to-school-budget-demands-send-parents/>

<sup>90</sup> <http://www.nzqa.govt.nz/about-us/our-role/legislation/fees/secondary-education-fees/>

<sup>91</sup> <http://www.labour.org.nz/educationmanifesto>

<sup>92</sup> CRC/C/NZL/CO/5 at para 37 and 38

- Ensure students whose families cannot pay the expected voluntary donations are not disadvantaged in their schooling as a result.
- Ensure schools are funded sufficiently to meet all the costs of curriculum delivery, including such additional requirements as digital technology, languages, and outdoor education/ camps.
- Increase school operational grants annually in line with CPI or actual costs, whichever is greater.
- Reduce household per-student spending to OECD average.

### *Māori students*

There are key educational performance gaps between Māori and non-Māori, which include<sup>93</sup>:

- A secondary school retention rate (to age 17) for Māori students of 50.6% (75.4% for non-Māori);
- School leavers achieving University Entrance standard (NCEA Level 2) for Māori youth of 25% (47.9% for non-Māori);
- A higher rate of Māori youth not in education or employment or training at 22.4% (9.1% for the non-Māori population).
- European/Pākehā teachers held more negative beliefs about Māori students than any other ethnic groups in their classes. These negative perceptions can create a self-fulfilling prophecy of Māori educational failure.
- Negative attitudes towards Māori also exist among New Zealand High School students who have rated Māori speakers as significantly lower on measure of social class and intelligence than Pākehā speakers.

An important factor is the availability of school-based health services, which are funded through the Ministry of Health via District Health Boards. The services provided: a part-time nurse and/or doctor, physiotherapists, social workers, psychologists, depend on a school's location and the funding streams available to it. The programme is targeted by decile, with funding for decile 1 to decile 3 secondary schools, teen parent units and alternative education facilities. Access at school to confidential, affordable health professionals acts as a preventive of escalating problems, and it offers role models.

A recent report, which involved nearly 1,700 children showed, that tamariki<sup>94</sup> and rangatahi Māori feel they are treated unequally at school because of their culture. "Many rangatahi and tamariki told us they experience racism at school. We also heard from many who described feelings of being treated unequally because of their culture".<sup>95</sup>

**Recommendation 16:** that the New Zealand Government address the recommendations of the Children's Rights Committee on disparities in education for Māori.<sup>96</sup>

### *Inclusive education*<sup>97</sup>

Students with intellectual disabilities are excluded from New Zealand's education system, face barriers to equitable access to education and are over-represented in school disciplinary processes, particularly exclusions both formal and informal. There are barriers to enrolment, accessing the curriculum and required resourcing. Initial teacher education and ongoing professional development in inclusive practice also remains a problem.<sup>98</sup>

In addition there are long delays for students to access early intervention and specialist services including communication and behaviour support.

<sup>93</sup>Blank, Anton; Houkamau, Carla; Kingi, Hautahi. "Unconscious bias and education; a comparative study of Māori and African American students." Oranui Press 2016.

<sup>94</sup> Children <http://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&histLoanWords=&keywords=tamariki>

<sup>95</sup> Office of the Children's Commissioner and New Zealand Schools Trustees Association *Education Matters to me: Key insights*, 2018, page 19. <http://www.occ.org.nz/assets/Uploads/OCC-STA-Education-Matters-to-Me-Key-Insights-24Jan2018.pdf>

<sup>96</sup> CRC/C/NZL/CO/5 at paras 15, 37 and 38

<sup>97</sup> See page 18 of [http://www.acya.org.nz/uploads/2/9/4/8/29482613/uncroc\\_-\\_acya\\_supplementary\\_information\\_-\\_walk\\_for\\_a\\_bit\\_in\\_my\\_shoes\\_-\\_i....pdf](http://www.acya.org.nz/uploads/2/9/4/8/29482613/uncroc_-_acya_supplementary_information_-_walk_for_a_bit_in_my_shoes_-_i....pdf)

<sup>98</sup> Independent Monitoring Mechanism of the Disability Convention Article 24: The right to an Inclusive Education Interim Implementation Report 2016 <http://www.ombudsman.parliament.nz/newsroom/item/right-to-an-inclusive-education-new-imm-report>

The current learning support resourcing framework is flawed and not informed by prevalence data. Despite over thirty years of special education policy development and review it is unknown how many children and young people with disabilities are enrolled, where they go to school or the type, extent and true cost of the supports they need to learn.

Students with disabilities do not enjoy an enforceable right to education and have no access to an independent review of decisions made. IHC (the New Zealand organisation providing support and care for people of all ages with intellectual disabilities) lodged a complaint under the Human Rights Act in 2008 based on the continual systemic, unjustified discrimination against students with disabilities requiring accommodations to learn. This claim is still to have a full hearing in the Human Rights Review Tribunal.

**Recommendation 17:** that the New Zealand Government:

- address the recommendations of the Children’s Rights Committee on inclusive education and the education rights of children with disabilities<sup>99</sup>
- Collect accurate prevalence data on students requiring additional supports to learn and using that data and actual accommodation costs to inform education policies, resource frameworks, plans and programmes
- Properly resourcing disabled students and schools under the learning support system to ensure:
  - students with disabilities and schools have timely access to specialist support services (communication, behaviour and other specialists).
  - initial teacher education programmes and professional learning and development results in all teachers being confident in teaching all learners.
- Make people with intellectual disability visible and counting them in reporting on participation, progress and learning achievement in education, including system-wide indicators used to monitor and report on the performance of the education system, and appropriately disaggregating this information.
- Changing the law so that school disciplinary policies and processes are not to be used to respond to student disability related behaviours.
- Establishing a quasi-judicial education tribunal or arbitration mechanism.
- Making sure that people with intellectual disability benefit equally from three years free tertiary education.
- Implement teacher training programmes to improve teachers’ awareness of the social justice issues regarding education and tamariki Māori in poverty, and to equip teachers to teach in empowering and culturally appropriate ways. These programmes should be a core part of teachers’ initial training and ongoing professional development.
- Ensure a minimum of proportional representation on school Boards of Trustees for Māori students.

**This submission is from:**  
**Child Poverty Action Group Inc.**  
PO Box 5611,  
Wellesley St,  
Auckland 1141.  
<http://www.cpaq.org.nz>

**Action for Children and Youth Aotearoa**  
PO Box 76891  
Manukau  
Auckland 224  
[www.acya.org.nz](http://www.acya.org.nz)  
[secretary@acya.org.nz](mailto:secretary@acya.org.nz)

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<sup>99</sup>CRC/C/NZL/CO/5 at para 15, 30(b),(c), 36 and 37.