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United Nations Convention On The Rights Of The Child Consultation

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GENERAL COMMENTS

[1] In New Zealand, there is increasing awareness of the needs of children, and of the actions that need to be taken to ensure both basic and higher needs are met. Dr Cindy Kiro, the Children's Commissioner, stated as her vision: "*the rights of every child and young person in New Zealand are recognised and each enjoys good health, education, safety and economic wellbeing*". The outcomes required to achieve this vision are that every child is safe and nurtured; every child has adequate resources and opportunities to develop; and society's attitudes and behaviour change to become more child-focused (Office of the Children's Commissioner, 2008).

[2] Child poverty has an important bearing on a very wide range of outcomes for children. Trends in child poverty powerfully reflect the priority which society accords to the fulfillment of children's rights. Government reporting processes, including those for UNCROC, must therefore reflect the fact that equitable outcomes for all children are far from being achieved, as shown by the fact that one in five New Zealand children remain below the poverty line of 60% of current median disposable income. Yet caution is needed when looking at government reporting. A 2008 report of the Ministry of Social Development (MSD) entitled *Children and Young People: Indicators of Wellbeing in New Zealand* (Ministry of Social Development, 2008) carefully selects the years for comparison in order that the data can show an increase in overall wellbeing, but ignores the worst instances of child poverty. Working for Families (WFF) has improved outcomes for many families with children, but has at the same time allowed approximately 150,000 children of beneficiaries to fall further behind in both comparative and absolute terms. Child Poverty Action Group (CPAG) argues that WFF therefore discriminates against children on the basis of their parents' employment status.

[3] **UNCROC Article 2** 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

[4] The Ministry of Youth Development (MYD) Report s.6.138 states: "In June and July 2008, the Human Rights Review Tribunal heard submission on one of the first proceedings under Part 1A of the Human Rights Act¹: Child Poverty Action Group Incorporated v Attorney-General. The

¹ Since the last Periodic Report the Government has introduced several amendments to the Human Rights Act 1993 to reduce inequality and improve human rights. The Human Rights Amendment Act 2001 incorporates several significant changes, including changes to the human rights institutional framework and the complaints process. Part 1a of this amendment has allowed CPAG to bring its human rights case challenging discrimination in family assistance policy.

plaintiff (a non-governmental organisation) alleges that the provision for an in-work tax credit to low to middle income families discriminates on the ground of 'employment status' as recipients of income-tested benefits are ineligible for the credit. A decision in the case is pending, but not expected until later in 2008" (Ministry of Youth Development, 2008, p. 109).

[5] Discrimination on the ground of employment status is prohibited by the Human Rights Act. CPAG submits that the MYD report should acknowledge this by referring to "the prohibited ground of employment status", not "the ground of 'employment status' " in order to establish the status of said ground as clearly prohibited in law, and not merely part of CPAG's allegation. CPAG further submits that the alleged discrimination results in 200,000 children being discriminated against by being denied the in-work tax credit, but also unjustifiably materially disadvantaged: of all children they are most in need of financial support yet are explicitly and actually denied that assistance. At present CPAG is awaiting the Tribunal's decision on the allegation that the In-Work Tax Credit (IWTC) and its predecessor the Child Tax Credit have, since 1996, unjustifiably been denied to families unable to meet the employment criteria. This discrimination, it is stated, has resulted in the loss of entitlement to family assistance payments for families in receipt of social assistance, including Domestic Purposes, Unemployment and Sickness Benefits.

[6] Recent significant increases to family tax credits have been accompanied in some cases by reductions to basic benefits. Some aspects of hardship assistance have increased but not sufficiently to offset other cuts to 'third tier' hardship assistance, and overall access to them has been tightened. Slight increases to the minimum wage and adjustments to tax thresholds have provided some relief for families in employment, but effective marginal tax rates and abatement thresholds remain a poverty trap for families unable to reach the levels of employment required to qualify for 'in-work' income top-ups. While the government has funded 20 hours of early childhood education per week per child, problems associated with this include a shortage of early childhood centres in neighbourhoods where the need is greatest; the ineligibility of whānau-led services such as Playcentre and Te Kōhanga Reo for funding (St John & Wynd, 2008, pp. 6-7), and the significant difference between "care" and "education".

[7] **UNCROC Article 18** 1. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

[8] **UNCROC Article 26** 1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

[9] **UNCROC Article 27** 1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

[10] In addition to UNCROC Articles 18, 26, and 27, the *New Zealand Action Plan for Human Rights* (Human Rights Commission, 2005), as well as noting New Zealand's substantial achievements in promoting and protecting human rights, sets out a number of 'outcomes' for

New Zealand to aspire to, and 'priorities for actions' for achieving them. Those actions include a focus on eliminating poverty to ensure that, as a priority, every child and every disabled person in New Zealand has an adequate standard of living, and equitable access to appropriate quality education services.

[11] CPAG has shown that the statistics for children, particularly Maori and Pacific Island children, reveal that every child in New Zealand categorically does not have an adequate standard of living (St John & Wynd, 2008). In addition, the Ministry of Social Development's *Living Standards Report 2004* (2006), and the later *Pockets of Poverty* (2007), both showed deepening hardship among New Zealand's poorest children.

[12] Ongoing high levels of child poverty provide evidence that economic rights need to be given higher priority. All new policy and legislation must be audited to ensure the impact on children will be positive.

[13] CPAG also submits that current policy for children and families prioritises the needs of the labour market over and above children's rights and best interests, by following a work-first ideology which undermines both basic income protection for already-vulnerable families with children and the role of parents as first teachers able to provide the best start for their children.

[14] The MYD report s.6.105 states that: "The principal support for children... is provided through WFF tax credits under the Income Tax Act 2007, rather than through the social security system." In the context of this it is indeed a great shame that the greatest proportion of new money invested through WFF was carved off for the discriminatory In-Work Tax Credit, purportedly aimed at 'making work pay'. Discrimination in the design of support for children has resulted in poverty rates that are very high compared to those among the elderly in New Zealand. To locate the source of the rest of the disparity we need only compare the differences between support for children and the elderly. Benefits, and child related assistance are highly targeted and indexed to the CPI. New Zealand Superannuation support for elderly is not only indexed to wages but is universal and not work-tested. Children's economic rights are twice compromised through inadequate indexation and through discrimination.

[15] While universal services, including pre-and post-natal care, free health care for under 6 year olds, Well Child screening and health checks and immunizations have been extended; and intensive services such as Family Start and Early Start for struggling families have been introduced, other, ongoing high costs such as after-hours primary health care have not been addressed.

[16] WFF is designed to 'incentivise' people into work. To access a large measure of its money a couple must be in paid work a minimum of 30 hours per week, and a single parent must be in paid work for 20 hours per week. Also, they must not be accessing any "main benefit". Families which meet every criterion for receipt of WFF (work-hours and non-receipt of core benefit requirements) have unquestionably benefited.

[17] For the large numbers of people who work in part-time or casual jobs, the design of WFF means the package further undermines their income security. People working in insecure jobs

are in double jeopardy of losing both wage income and tax credits at once, as well as incurring a substantial risk of having to refund overpaid tax credits.

[18] Despite 'ensuring income adequacy' being a key aim in the introduction of WFF, in combination with inadequate benefit levels generally its design ensures income *inadequacy* for those not meeting employment criteria. The amount received varies depending on parental work status, and upon (non-)receipt of core benefit. The anomaly is created by WFF's conflicting policy objectives of supporting the costs of raising children and 'making work pay'.

[19] The Māori and Pacific Island population are disproportionately disadvantaged by WFF as they have a younger demographic structure and a lower socio-economic status than the general population (Wynd, 2006). Thus it can be argued that the IWTC treats children of different races differently. These ethnic groups have already experienced a much larger decline in their living standards between 2000 and 2004 than the rest of the population (St John & Wynd, 2008, p. 50).

[20] Income is the most important determinant of health. If, as the current draft report on UNCROC suggests, income adequacy has been achieved largely as a result of WFF, why are New Zealand's Maori and Pacific child health statistics so appalling? Māori and Pasifika children are still most at risk of poor health. Of all ethnic groups, Pasifika children have the highest rates of infant mortality and of hospitalisation for preventable diseases. New Zealand children have higher rates of preventable illness and deaths from injuries than children in almost any other OECD country. A child growing up in poverty is three times more likely to be sick than a child growing up in a higher-income household. Poor nutrition, a stressful environment and substandard housing are factors that diminish a child's ability to fight infection. Insufficient disposable income, substandard housing, inadequate nutritious food and unequal access to health care all contribute to the risk of poor health (St John & Wynd, 2008, p. 6).

[21] Contrary to what the current draft states, WFF measures were not targeted at the transition to work. Firstly, there is no recognition of work effort for those failing the stringent worktest for sole parents of 20 hours per week; and secondly the abatement regime is such that the work incentive payment abates after other tax credits. Further, the allowable earnings threshold that applies to those on benefits has not been adjusted for decades and is too low to make it worthwhile for beneficiaries to work part time. For those who do qualify for it, WFF requires of sole parents a further leap from 20 hours work per week to fulltime employment, before they will see any financial gains – and this is extraordinarily difficult to achieve or sustain even if work is available that fits with childcare needs. Use of third tier means-tested supplements and high abatement of benefits at very low levels of earnings locks people into a poverty trap. The 20 hours paid work criterion is particularly harsh for a sole parent who is already doing the job of two parents. In contrast, a two-parent family can have one full-time caregiver at home while the other works the minimum of 30 hours. Not being able to share the workload was a significant issue for the majority of sole parent participants in a recent study (The Rotorua Peoples Advocacy Centre (RPAC) Inc., 2007).

[22] Rates of home ownership are now at their lowest since the early 1950s, reflecting decreased housing affordability and an absence of government-funded programmes to support

home ownership for modest income households. Māori and Pasifika families are disproportionately affected by reduced housing affordability, and as a consequence are most likely to live in inadequate, overcrowded housing. Low-income families increasingly unable to meet day-to-day expenses are often doubling up in the cheapest accommodation available, often state housing. Transience is a significant problem for the many thousands of low-income families in private rental accommodation, and has high costs for children's socialisation, education and health.

[23] In the last decades of the 20th century, New Zealand had the fastest growth in income and wealth inequality in the OECD. In New Zealand, as in other developed countries, women and children have borne the brunt of this widening income gap. Childhood accidents, high rates of teen pregnancy and domestic violence, including violence against children, and low rates of participation in education are all characteristics of societies with highly unequal income distributions (Kawachi & Kennedy, 2002; Wilkinson, 2005; Wilkinson & Pickett, 2007 cit. St John & Wynd, 2008). Many families are already struggling to cope with the rapid rises in basic living costs. Food went up by 7 percent in the year to June, and petrol by 34 percent, and more since. What is going to happen during the looming economic downturn?

[24] New Zealand's widening income disparity is no accident. It is the predictable outcome of the economic reforms of the late 1980s and early 1990s. Among those reforms was a deliberate strategy of reducing benefits relative to wage income. In 1991 social welfare benefits, including the DPB, were cut significantly. These cuts have never been restored and, although benefits are indexed to the Consumer Price Index, they have lost ground relative to average wages (St John & Wynd, 2008, p. 16).

[25] If the economic condition of New Zealand children is to be improved benefit levels need to rise and the earned income disregard has to be increased, as a matter of urgency. WFF leaves family incomes too vulnerable to downturns in the labour market. While work is very important for reducing poverty and increasing overall wellbeing, a "work first" policy is not sufficient to eliminate child poverty. Parental or child illness and disability, physical and social isolation including poor access to services, fewer employment opportunities and lack of support may all act to preclude parents from taking paid work. Leveraging more parents into low-wage jobs is expensive and, in the long term, largely ineffective. Yet the evidence suggests that in fact most beneficiaries leave the benefit system of their own accord when they can. Moreover, in contrast to the assumptions that underlie New Zealand's social assistance, generous welfare regimes need not result in a poverty trap and may be the most effective at reducing child poverty (St John & Wynd, 2008).

[26] Beneficiaries are the only people who don't receive any relief from the tax changes at 1 October 2008. This leaves them even further behind when the rest of the population has had their incomes increased by 12%. Benefits are set at the after-tax rate - but the corresponding gross amounts are shown by Work and Income New Zealand (WINZ), and in order to keep the after-tax amounts the same with the new tax rates, the gross amounts have been reduced by 3 to 5%. Had the new tax rate been applied to the previous gross amounts, benefits would have risen by \$3.50 to \$8 per week. A letter to the New Zealand Herald states: "*The invalids' benefit*

drops from \$277.50 gross to \$263.07 gross, giving the same net of \$230.19 after the tax cut. Invalid beneficiaries struggling to live on \$230.19 a week were looking forward to a \$12 rise, but the Government instead chose to cut the gross weekly payment by \$14.43.” Pensioners, on the other hand, were treated differently, with their tax rate dropped, and their in-the-hand payment increasing. Superannuitant couples will now receive \$468 per week compared to couples on the Unemployment or Sickness Benefit who receive \$307, a difference of 50%.²

[27] The recent Social Security Amendment Act 2007 downgraded aspirations for social security from full participation in society for all, to some alleviation of hardship. Cuts to hardship assistance (when Special Benefit became Temporary Additional Support) have in practice undermined even the latter modest aim. When Special Benefit became Temporary Additional Support the capacity for discretion was removed, which has resulted in a decreased ability by WINZ to ensure ‘assistance is targeted according to specific individual circumstances’. CPAG has estimated that initial overall gains for beneficiaries from WFF were minimal when those cuts were taken into account, however we also note that grandparenting provisions needed to be brought in for the express purpose of ensuring that people were ‘no worse off’. Even more concerning is the fact that neither in the introduction of that policy nor subsequent ones has there been a fundamental requirement that hardship among all children be alleviated, and children be treated equally and fairly. Worse, applicants for now-reformed benefits receive less than existing recipients do or previous recipients did.

[28] Recent years have seen hardship deepen. The problems of the poorest need to be tackled first, not last. CPAG does not dispute that work should pay, nor that work can bring benefits for most families. However, the way to make work pay is not to cut benefits to sub-poverty levels. Long-term poverty poses a substantial and immediate threat to children’s development. And poverty is itself a ‘barrier to work’.

[29] **UNCROC Article 28** 1. States Parties recognize the right of the child to education. **UNCROC Article 29** 1. States Parties agree that the education of the child shall be directed to the development of (a) the child’s personality, talents and mental and physical abilities to their fullest potential; and (b) of respect for human rights, fundamental freedoms, and the principles of the Charter of the United Nations.

[30] The good news is: the last seven years have seen an increasing recognition of the importance of all levels of education and training, including vocational courses. Youth apprenticeships are being trialled in 20 schools in 2008 and rolled out to a further 100 schools in 2009. The Tertiary Education Commission is also piloting a post placement support programme for trainees who have undergone Youth Training. Industry Training Organisations (40 nationally) help by setting national standards for their industries; providing information and advice to trainees and their employers and developing appropriate training arrangements; and arranging training and assessment; and monitoring training quality. Modern Apprenticeships, introduced in 2000, are targeted at 16 to 21 year olds. In July 2006, 5,490 under 18 year olds were involved

² Mowbray, M., 2008. CPAG internal communication.

in the programme. Additional Government investment in education has increased the numbers of teachers to reduce class size. Access to tertiary education has been improved by abolishing interest on Student Loans (with some exceptions) and raising the threshold for parental income taken into account when assessing Student Allowance entitlement.

[31] However, international comparisons show we are slipping back in maths and science. Also, the *Progress in International Reading Literacy Study* (Comparative Education Research Unit, 2007), showed that Maori and Pacific Island students are still measurably lagging behind.

[32] Addressing these failures in the educational system must be given high and urgent priority.

CONCLUSIONS.

CPAG argues that:

- WFF discriminates against children on the basis of their parents' employment status. Research by CPAG and various government agencies show that every child in New Zealand categorically does not have an adequate standard of living. Some of those reports show deepening hardship among our poorest children, particularly for Maori and Pacific children.
- Child-rearing and parenting must be recognized and valued as "work".
- Action must be taken now to lift social assistance to adequate levels to alleviate economic hardship and ensure all children have the opportunity to participate in education and in society.
- Addressing the failures in the educational system must be given high and urgent priority.
- All new policy and legislation must be audited to ensure the impact on children will be positive.
- The UNCROC report needs to provide more detailed information and analysis about child poverty such as that found in the reports, *Children and Young People Indicators of Wellbeing 2008; A Fair Go for All Children; and Left Behind*.
- The UNCROC report needs to include what actions are being taken by Government to develop a clear and comprehensive implementation programme to eliminate child poverty, and the Government needs to stipulate a date for the elimination of child poverty, and measure our progress toward that goal.

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