

**Submission to Ministry of Justice on 30th October 2007
Draft of New Zealand's Fifth Periodic Report on compliance
with the International Covenant on Civil and Political Rights.**

Introduction

Action for Children and Youth Aotearoa Incorporated (ACYA) is a coalition of non-governmental organizations, families and individuals whose purpose is to promote the well-being of children and young people in Aotearoa New Zealand through:

- education and advocacy on the rights of children and young people;
- encouraging the government to act on the recommendations of the United Nations Committee on the Rights of the Child; and
- promoting opportunities for the voice and participation of children and young people.

In 2003 ACYA produced and published *Children and Youth in Aotearoa 2003*, the New Zealand NGO Report on New Zealand's implementation of the UN Convention on the Rights of the Child (NGO Report). The NGO Report was presented to the UN Committee on the Rights of the Child in Geneva in June 2003, accompanied by a video funded by ACYA and produced by New Zealand children called *Whakarongo Mai / Listen Up*.

In 2006 ACYA made a response to the draft fifth periodic report to the United Nations Committee Against Torture.

ACYA has 100 or so members, both individual and child related organization including leading child interest groups. This submission has been prepared by the ACYA Committee and the views expressed in it may not represent the views of each ACYA member.

However, ACYA and other human rights NGOs have strong concerns about a range of issues to do with New Zealand's compliance with international human rights treaties, including this particular Covenant.

Article 1 Self Determination

As advised in the media the Self Governing referendum was once again lost by a narrow margin. Our concern is that the children of Tokelau, who are citizens of New Zealand, have access to the same rights and safeguards as the children of New Zealand. We address this later in this submission.

Article 2 Enjoyment of Civil Rights

Given that much of the direction of the NZAPHR is concerned for the welfare of children, we note in paragraph 45 that Government Agencies are to work with HRC to facilitate progress. We have not been able to identify in SOI any evidence of this work. We ask that evidence be produced in the report that work is in fact in progress.

Article 3 Equal rights for men and women

Is a note required here of the change on youth rates to acknowledge new entrants effective from 1 April 2007? We reiterate our concern that those under 16 years do not have the protection of a minimum wage or age for work situations.

Article 6 Right to life

The Social Report 2007 is now available. Paragraph 81 should include the mortality experience of Maori and Pacific Island people, which is below the figures quoted. Infant mortality figures should also be appropriately quoted.

We note no comment has been made on abortion legislation, its effect in society, and the arguments internationally on the appropriate or inappropriate termination periods being debated.

ACYA has expressed serious reservations on the effect to children on aspects of the Immigration Bill, mentioned in paragraph 86. Now that submissions have been made, a summary of issues, even prior to the Select Committee hearings being completed, would be of value to the UN Committee.

Article 7 Torture and Inhuman Treatment

ACYA made submissions in November 2006 in respect of the Government's 5th periodic CAT report. The key issues of concern are:

- a) Young people kept in police cells and poor treatment
- b) Liam Ashley case
- c) Age of responsibility - Young Offenders Bill

Article 9 Right to Liberty

There has been major public concern of events of 15th October 2007 in respect of the anti-terrorist investigations carried out in Ruatoki, both as regards road blocks and the holding of children in a manner that was prejudicial to their wellbeing. Because some charges are pending there has been a restriction to the freedom of information. We understand that a civil rights QC has carried out independent investigations subsequent to the event.

Article 10 Deprivation of Liberty

In respect of paragraph 132 bullet point 10 the Select committee recommendation on the pending legislation of Mothers and Babies could improve the rights of the child.

In respect of age mixing of juveniles the Government should indicate the present position to remove the Reservation to CRC, Item 3 of the MYD Five Year work Programme, where a report to Cabinet was due in August 2007.

Article 17 Privacy

No mention of the Broadcasting or Advertising Standards that protect children or the issues that have arisen.

Article 23 Family

No mention of the Families Commission.

In respect of domestic violence there needs to be a comment on the non-accidental deaths to children and the significant increase in the cases reported to CYF that need investigation.

There is no mention under paragraph 290 that CPAG have brought legal action against the Government in respect of alleged discrimination in the Working for Families package.

Article 24 Children

No mention of the improved position for children under the Evidence Act.

Local Authorities are mentioned under Article 25. ACYA has raised concerns with MYD, that the obligation of Government under CRC is not clearly enunciated to Local Authorities, and this has led to a failure of some Local Authorities to understand, and implement their obligation.

The Citizenship Amendment Act has the effect of raising questions of the nationality of children born in New Zealand to a mother who is not a resident of New Zealand. There is a period where the nationality of the child is undecided. The position needs to be monitored.

Article 27 Minorities

There is no mention of Pacific Island experience which in many factors is at a disadvantage to the general populace.

In respect of Maori the education outcomes are often inferior to those of the general school populace and this is evidenced in the Annual Reports and SOI of the Ministry of education.

Live Birth rates for Maori children are of concern.

TOKELAU

The 2003 Concluding Observations of the UN Committee for CRC raised the specific issue of the CRC not applying to Tokelau. ACYA as expressed its concerns to MFaT that under the present arrangements there can be no certainty of the welfare of children in Tokelau who are NZ citizens. David Paton, the Administrator, is aware of our concerns.

Missing Articles

There is no mention of article 4 public emergency. Given the possibility of Earthquake, Volcanic Eruption, Terrorism or Tsunami should a statement be made. ACYA has concerns for children caught in such situations.

In respect of Article 16 where everyone is to be recognised before the law, ACYA submits that for those under 16 to be subject to a restriction under the Human Rights Act (particularly in respect of no protection for minimum age/wage) is in breach of this Article.

P. SHUTTLEWORTH
FOR COMMITTEE

An after thought. (sent by email and accepted by MoJ)

Browsing the MoE SOI, I saw a note re Youth Gangs South Auckland, which is a CRC issue. However it raises the broader issue of gangs generally and leads to the drug "P". All these matters raise civil rights issues for children caught on the fringe, or becoming involved, either because their family is implicated or their lives confused. The outcome has serious effects for society.